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# VIRTUE & LAW IN PLATO & BEYOND

JULIA ANNAS



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UNIVERSITY PRESS

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# Preface

The ideas in this book have been with me for some time. I started thinking about virtue in the *Laws* and law in the *Republic* in the mid-2000s, and noticed early on that there is an illuminating analogy in Philo to Plato's procedure in the *Laws*. My attempt to bring together ideas about Plato, Cicero, and Philo was interrupted by (successful) treatment for breast cancer, and the year's enforced 'vacation' made me think more deeply about the issues. I continued to work more on them as I realized that I needed to back up my views about virtue in the *Laws* with a more general view of the dialogue and its methodology. I have greatly benefitted from the translation and commentary of Schöpsdau, as well as the older text and commentary by England, and I am grateful to Malcolm Schofield for letting me see his introduction to the new Cambridge translation of the *Laws* before publication. I also delved deeper into the works by Cicero and Philo, and the philosophical and social backgrounds against which they were written. I remain aware that I am a novice in Philo studies, and hope that this has not been too much of a disadvantage. I have been excited by the recent vigorous growth of interest in the *Laws*, and am very grateful for the work of Malcolm Schofield, Christopher Gill, Susan Sauvé Meyer, Zena Hitz, Andre Laks, and Christopher Bobonich. As a result of the book's long gestation period, I have the pleasure of thanking a large number of people. Over ten years I am sure that I have forgotten the source of many helpful conversations, comments, and emails. I apologize for this, and would be grateful to be reminded by people not mentioned here. I owe special thanks to Malcolm Schofield, to my colleague Rachana Kamtekar, Christopher Gill, Charles Kahn, Brad Inwood, David O'Connor, Franco Trivigno, Jeremy Reid, Gretchen Reydams-Schils, and two readers for Oxford University Press.

The book covers ground discussed in three published articles: 'Law and Virtue in Plato', in C. Bobonich (ed.), *Essays on Plato's Laws*, Cambridge University Press, 2011, 71–91; 'Plato's *Laws* and Cicero's *De Legibus*', in *Plato, Aristotle and Pythagoras in the 1st Century BC*, edited by Malcolm Schofield, Cambridge University Press, 2012, 206–24;

and ‘Virtue and Law in the *Republic*’, in *Presocratics and Plato: Festschrift at Delphi for Charles Kahn*, edited by Richard Patterson, Vasilis Karasmanis, and Arnold Herrman, Parmenides Press, 2013, 165–82. Papers dealing with issues in parts of the book have been delivered to the following audiences, and I am grateful for their responses and criticisms: the Princeton Ancient Philosophy Colloquium; the Society for Biblical Literature; Conference on Philosophy in the 1st Century BC at Cambridge; Philosophy Department, University of Oslo; Philosophy Department, University of Uppsala; Centre for Advanced Study, Oslo; the Stanford Ancient and Modern Political Thought Group; Philosophy Department, University of Bergen; Seoul National University; the Korean Society for Greco-Roman Philosophy; the Corbett Lecture for 2011, University of Cambridge; the Benedict Lectures on Political Thought 2012, Boston University; the Danziger Lecture 2013, University of Chicago; the Hall Lecture 2013, University of Iowa; the O’Neill Lectures 2013, University of New Mexico, Albuquerque; University of Edinburgh Law School; and the West Coast Plato workshop on Plato’s *Laws*.

Again, I thank everyone who has helped me along the way, and apologize to those I have unintentionally omitted. Translations are mine unless otherwise indicated.

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# 1

## Introduction

In this book I aim to do two things. I explore a strand in Plato's *Laws*, a work which after much neglect is now the object of a growing and very interesting body of work. And I also aim to follow up two authors influenced by this Platonic strand, an under-studied way of thinking about virtue, law, and their relationship. The book is not a general study of the *Laws*, which would be a far larger undertaking.

It has always been noticed that Plato in many dialogues, and particularly the *Republic*, has a great deal to say about virtue. He has something to say about law, too, in the *Crito* and *Statesman*. In the *Laws* he explicitly turns to the topic of law and spends a great part of the work setting up a model law code for a projected city. It is in the *Laws* that we find the issue of the relation of virtue to law raised and given an extensive answer; this is something that the *Crito* and *Statesman* do not develop.<sup>1</sup>

There is clearly a noticeable contrast between the *Republic* and the *Laws*, one often put broadly as follows. In the *Republic* the aim of the ideal state is to make all the citizens happy, which they are to do by developing the virtues appropriate to their ways of life. The rulers or 'guardians' are qualified to rule the others by virtue of their long and demanding training; this will produce virtuous and expert rulers, who manage the society in the way that expert doctors manage medical treatment or expert steersmen manage boats. Their training in virtue brings understanding of what is best for all the citizens and the society as a whole, which they impose on the others to produce virtue and happiness for all. In *Magnesia*, the ideal projected city of the *Laws*, on the other

<sup>1</sup> The *Crito* is concerned with the question whether Socrates should obey the actual laws of Athens when unjustly condemned. The *Statesman's* focus is on the ideal statesman and kinds of constitution. Neither is concerned with the issue of virtue and law which is extensively developed in the *Laws*.

hand, the rulers are officials; they manage society in a more ordinary and familiar way, by enforcing the laws. In Magnesia the law code organizes every aspect of life, from (and before) birth to death, and this is imposed on all, rulers and ruled alike, to be strictly obeyed. Magnesians are to be made virtuous, and so happy, by obedience to law rather than to virtuous rulers.

There is clearly something right in this contrast, but without further examination it can be taken too hastily as the claim that Plato's focus has moved from virtue as what renders citizens happy to obedience to law as what does so.<sup>2</sup> We go, apparently, from 'the "guardian" unfettered by law; to the "guardian of the law" who is its "servant" and even its "slave"', a move which 'cleaves Plato's political theory into two distinct halves',<sup>3</sup> of which the first has been found far more philosophically interesting than the latter.

Sometimes Plato's stress on obedience to law in Magnesia has been attributed to increasing pessimism about human nature as he grew older.<sup>4</sup> The *Laws* was Plato's last work, and it was left unfinished when he died at the age of 81; he may of course have been working on it for some time along with other dialogues, but it certainly seems to belong to his later years. We have no basis, however, to infer that old age made Plato pessimistic, or, even if we had independent evidence that it did, that his writing expressed it. In fact I shall be arguing that the *Laws* presents us with a remarkably fresh and original approach to social and political

<sup>2</sup> Grote (1996) gives us the most extreme version of this; in his view Plato has in the *Laws* just given up on the ideas that animated the *Republic*. 'The concept of dogmatic omnipotence had become stronger in Plato's mind during the interval [between *Republic* and *Laws*]' (vol 3 p 334); 'Philosophy is interdicted or put in chains as well as poetry. An orthodox religious creed is exalted into exclusive ascendancy. All crime or immorality is ascribed to a departure from this creed' (vol 3 p 306). Stalley (1983) is less extreme but still finds a loss in philosophical argument.

<sup>3</sup> Barker (1959) p 84. Barker holds that in the *Republic* 'where education has given a living knowledge, law has become unnecessary' (p 167). As we shall see, this is far from anything in the text. Barker's view of the importance of the *Laws* is shown by his devoting twenty-five pages to it out of 207 devoted to Plato.

<sup>4</sup> Cf. Cohen (1995) p 43: 'In his *Republic* Plato rejects the notion of the rule of law in favor of the rule of the wisest and best, the philosopher ruler. In his last dialogue, the *Laws*, he explicitly abandons this principle, conceding that it cannot be implemented because only a god would possess the necessary qualities.' In Chapter 3 I will discuss the passages that have led to the claim that Plato 'explicitly' does this.

issues, and that to treat it as the product of a crabby and depressive old age is to miss most of what is interesting about it.

As I show in Chapter 2, there is a great deal about law in the *Republic*, far more than we tend to assume. It is not the case that the rulers of the ideal city, Kallipolis, rule without laws, or with a loose relation to laws. Law is very prominent in Kallipolis, so it is interesting that law is not usually prominent in the way we think about it. In the chapter I discuss the relation in Kallipolis of law and virtue, especially the development of the rulers' virtuous lives. Law is by no means a new theme in the *Laws*, and we shall see that when it comes to the relation of virtue and law the two dialogues are drawing on fairly similar material. There is certainly a marked contrast between *Republic* and *Laws*, but the contrast does not lie in the *Republic's* defending the rule of virtue while the *Laws* defends the rule of law. The difference lies rather in the relationship in the two dialogues between virtue and law. In the chapters on law in the *Republic* and the *Laws* (Chapters 2–4) I explore what this is, and fill out the ways in which the later dialogue is making a subtler and more interesting claim about the role of law than it is often taken to contain.

In Chapter 3 I lay out Plato's new approach to considering a projected ideal society. It has often been noticed that the *Laws'* approach is much closer to experience and history than that of the *Republic*, in which great efforts are made to turn the seeker for virtue away from taking seriously what experience tells us about the world, and to get her to rely instead on her powers of thinking and the world of thought thus revealed. It is striking that in the third book of the *Laws* we find that in seeking the best society we find it useful to look at actual societies and the way that they have developed. But Plato's turn to learning from experience goes deeper than this. In Chapter 3 I will show that Plato's ideal society is no longer conceived purely theoretically. Rather, he is trying to produce a combination of two kinds of existing society which are normally taken to be opposites: those of a type represented by Sparta and those of a type represented by Athens. The laws of Magnesia are firmly rooted in a communal culture of the Spartan kind, with a compulsory common education designed to produce citizens who think in terms primarily of the common good rather than the good of themselves and their own families. But much of the law code introduces institutions of an Athenian type, designed to produce citizens who are active participants in the governing of their society. As we shall see, Plato's idea of participation in

government is not just that of his contemporary Athens; nor is his idea of communal culture just that of his contemporary Sparta. He is trying rather to produce something new by taking over what he sees as the best in each type of government, while blending it with what is normally seen as its opposite, the product being what he hopes is an idealized unified combination with the good points of each and the bad points of neither.

This is a grandly ambitious claim, as grand as any other in Plato, not a feeble retreat from theorizing. How successful it is, is a question that can't be posed until we have a properly full understanding of it. Most relevant to my purpose is the point that Plato's new approach requires him to deal with an issue which he did not feel the need to face in the *Republic*, namely, what is the place of obedience to law in the development of virtue. In the *Republic* this question goes unasked, and therefore unanswered; in the *Laws* it is faced and answered by a new approach to the citizen's attitude to law. In the *Laws*, I argue in Chapter 4, Plato now insists that education for virtue on the part of the citizens requires them to learn explicitly, and internalize, obedience to the city's laws. Care is needed in establishing precisely what this involves, since obviously any society requires its citizens to see themselves as law-abiding, and to have some degree of awareness of this. What distinguishes the approach of the *Laws* is, to put it broadly, the specific and explicit role of conscious commitment to strict and unquestioning obedience to the laws, accompanied by commitment to understanding them in the process of acquiring the virtues. This is something absent both from the *Republic* and from Aristotle's ideal state in the *Politics*, though both of them require the development of citizen virtue to include awareness that the city's laws are to be obeyed. What is sometimes called, in modern terms, the virtue of law-abidance is built into the citizens' education in the *Laws* in a way not to be found in the more famous works that come before and after it. It is this distinctive position of the *Laws* which I focus on, one I think is interesting in itself, as well as for its position in ancient political thinking, one without the resonance or later fame of *Republic* or *Politics*, but finding a place within two later traditions utterly different from the world of the classical Greek polis.

Plato also breaks new ground in giving a metaphysical background to the laws of Magnesia, as the ideal city of the *Laws* is to be called. This is the concern of Chapter 5. Law is not, he thinks, to be understood merely as the product of people in cities devising solutions to the problems of

living together. Such laws have no more authority than the political compromises which produced them. Plato's ambitious alternative is that law in our society is a part of the working of reason in the cosmos, and in Book 10 of the *Laws* he develops a cosmology which fills out this idea. Law is the objective force of reason in the cosmos, which we can appreciate both at the cosmic level in the regularities of the heavenly bodies' movements, and also in ourselves as members of communities. Law is what produces order and regularity, and in identifying with our reason, the aspect of us that appreciates the cosmic force of law, we are doing our part to keep ourselves, and hence from our perspective the cosmos, orderly. Since cosmic reason turns out to be what the nature of god is, when we understand god, law is also divine, and indeed in one passage Plato comes near to calling Magnesia a theocracy. Given the importance to Magnesia's citizens of having the right attitude to the laws, this cosmic story has wide implications for the role in citizens' life of religion, not just in the sense of partaking in community rituals but of having the right beliefs about God, and this in turn has impact on the kind of civic virtues that are to be developed. This is the point at which Plato departs furthest from the mainstream of ancient political thinking about religion, but was found more resonant in the ancient Jewish and Christian traditions. In Chapter 6 I follow up one implication of the relation of virtue to law, namely that in Magnesia the dominance of virtue results in a reordering of values and priorities in people's lives, and thus a more different way of life than might have been suspected at first.

In Chapter 7 I start with different responses to the *Laws*. The ideal city in Books 7 and 8 of Aristotle's *Politics* has many affinities with the *Laws* and it seems clear that there was influence between the *Laws* and these two books. But the work turns out to have more in common with the *Republic* than with the *Laws* as concerns the issue foregrounded here, that of the relationship of law and virtue. There is, however, a real affinity between ideas at the end of the *Laws* and the Stoic idea of *natural law*; the Stoic idea can be seen as a comprehensible development of ideas about law and cosmic reason in the *Laws* (and also the *Timaeus*). There are some important changes. The most important, and the most striking, is that for the Stoics natural law, to be identified with the force of cosmic reason, is universal, applying to everyone in the cosmos, an idea that goes far beyond Plato's more limited claim that reason in the cosmos underwrites the laws of a model Greek polis. The Stoics also identify law in this

sense with the reason of the ideal virtuous person or 'sage'. This latter raises the question of the relative importance to law in this sense of *normativity* on the one hand—its being reason which, although it functions frictionlessly in the virtuous person, presents itself to us in the form of a command—with *lawlike form* on the other, actual laws being typically presented in general terms.

Cicero in his *On the Laws* (*De Legibus*) puts forward an account of an ideal law code with markedly Platonic features, and his explicit literary references to Plato's *Laws* are not merely decorative. Cicero, who knows the *Laws* well, is taking over Platonic ideas as developed and nuanced by the Stoics, and follows them in two ways. One is the Stoic direction of taking the law we find in nature to apply to all humans. The important distinction is not between types of people but between the wise and virtuous, whose thinking is aligned with natural law, and the rest of us, whose thinking is not; being unresponsive to it we experience it as *demanding* obedience from us. The other new feature in Cicero is that he takes universal natural law to be embodied, mostly, in existing Roman law, modified at parts. This last point has raised objection and even ridicule, and apart from that it certainly seems to clash with the claim about universality. Cicero's position, however, turns out to be defensible and interesting, once we take account of reasonable interpretations of natural law, and in particular of how Cicero is developing what he sees as a Platonic version of it. Looking at Cicero's work in the light of its Platonic forebear brings into focus some points which enable us not only to see it more sympathetically but to appreciate Cicero's interesting choice of tradition in political thinking.

In Chapter 8 I will look briefly at the works of Philo of Alexandria on the Ten Commandments and the Special Laws. Philo occupies a different position in regard to Plato from Cicero; he sees him not as a philosophical forebear but as a pagan, in a different tradition, whose writings can nevertheless be put to useful work in Philo's overall task of commenting on the Torah. Still, he clearly knows Plato's *Laws* well, and in important ways shows the influence of Plato's ideas in that work about virtue and law. Like Cicero, Philo both claims universality for the law which he sees as based in nature, and identifies it with a particular law code, in his case Mosaic law. Again, this is not a weakness of his position but a strength, once we appreciate the roles in Philo of virtue in relation to law. Unlike Cicero's, Philo's development of Platonic

ideas about virtue and law leads to a considerable redefinition of the virtues to be developed in a good society, a project in which he follows Plato more than he does Cicero.

Chapter 9 sums up the main strands of the discussion. Plato's distinctive position about virtue and law in the *Laws* does not give rise to a historically continuous tradition. Cicero is familiar with Plato, and so is Philo, but there is no reason to think that Philo knew of, or was interested in, Cicero's unfinished work. Rather, what is of interest is the way in which ideas in Plato's *Laws* could find resonance in two very different later contexts.

This approach in ancient political thinking is nowadays not very familiar to us, because of the more mainstream traditions of both influence and more recently scholarship on the *Republic* and *Politics*. Nor is it likely ever to challenge the attention which those theories get. It is, though, worthy of interest and study in its own right. One reason for this is that it illuminates something often assumed to be absent from ancient political thinking—namely the relation of political organization to religion. Religion is often taken to have only indirect relevance to ancient political thought. Ancient religion occupied a very different place in society and culture from the place it has today, mostly because contemporary forms of religion place far more weight both on creeds and belief, and on religion as unifying communities of believers, while ancient religion is better understood in terms of practices and rituals, unifying communities of culture. (Although a brief statement of this contrast inevitably oversimplifies it, it is basically correct.) However, Plato in the *Laws* takes up a position about religion which is unusual for his time and place, one which failed to resonate with Aristotle and mainstream ancient political thought, but interested both Cicero and Philo, in ways reflecting the differences in their culture and in their own attitudes to religion. Philo had great influence on some early Christian thinkers, notably Clement of Alexandria, but I will not here follow Platonic influence further into this tradition.<sup>5</sup>

There are two issues which I will leave aside in this work. One is the fascinating recent development of work on law and virtue in philosophical and legal studies. I have read some of this literature and found much

<sup>5</sup> See Runia (1993) and (1995).



of interest in it,<sup>6</sup> but I have consciously refrained from trying to apply it to the ancient texts. Rather, I think that the ancient texts have to be interpreted in their own contexts in order to bring into focus what is of most interest in them to us, and it is only then that we can reasonably take them as partners in contemporary debate.

The other issue is that of the so-called ‘development of Plato’s thought’. I don’t engage in any debates about the development, or not, of Plato’s overall thinking between *Republic* and *Laws*. I take it as obvious that *Laws* is the later dialogue, but I also take it that we are likely to gain obscurity rather than clarity from trying to find an arc of development of Plato’s overall political thinking that starts with the one work and ends with the other. My own position is that Plato consistently, throughout his intellectual life, held to a very general thesis about political and social life, namely that the only good society, one worth living in, is one which has the unified overall aim of making its citizens happy, and that this can be achieved only by having them educated and formed to develop the virtues and so to live happily. How you think this is best to be achieved can obviously take many forms, and presupposes very different levels of generality on which the achievement of the good society can be envisaged. *Republic* and *Laws* are two ways in which Plato worked out his vision of how the good society can be achieved. Neither is a blueprint for overexcited idealists to go out into the countryside to try to put into practice. Nor is their relationship well described by saying that *Republic* believes in the possibility of philosopher-rulers whereas *Laws* is pessimistic about this. Nor are these the only two ways in which Plato thought about the achievement of the good society; apart from the *Statesman* there is also the Atlantis story in the *Timaeus* and *Critias*, a Utopian narrative with a philosophical purpose.<sup>7</sup> In general, seeing Plato’s works as stations on a line of overall development of his thought is unhelpful. I hope that this study of the *Laws* will contribute to the growing body of work studying it in its own right.

<sup>6</sup> See Solum (2013) for an excellent account of the main issues in contemporary law and virtue.

<sup>7</sup> See my (2010b) for the relevance of the Atlantis story to the *Republic*’s main argument.

## 2

# Law in the *Republic*

## Law in the *Republic*?

In the *Republic* Socrates sketches an ideally virtuous society in order to illustrate in ‘larger letters’ what virtue is in individual people. We need to do this in order to find the answer to the crucial question of how we should live—how we should live, that is, if we are to live happy lives. Plato takes it for granted, as the ancient tradition does, that we all want to live happy lives. This is, as would be understood by his audience, *eudaimonia*: happy lives in the sense of lives lived well, satisfying, flourishing lives. It would not occur to anybody that the happiness he talks about here could be a state of feeling pleasure. The *Republic*’s main argument is that my life will be lived happily only if I live my life in a way in which my overall aim is living virtuously, an aim which structures my life in ways that organize and prioritize my other goals and values. The city which models this on a larger scale is, correspondingly, one which is virtuous, and so happy.<sup>1</sup> The crucial virtue in both cases is *dikaiosunē* (*justice*), which is said to be the same in both cases, namely a certain relation between the parts of a unified whole. Thus city and soul illustrate the very same thing, namely justice, explored in the overall framework of search for an answer to the question, what is a good or a bad life for us to live.

Given this overall framework, it’s understandable that study of the ideally virtuous city of the *Republic* (which I shall henceforth refer to as Kallipolis) tends to focus on what it shares with the ideally virtuous individual—its components and their relationships—while issues like that of the role of law in Kallipolis have gone unseen or only partially

<sup>1</sup> I take it that the city is happy when and only when its citizens are; I don’t here enter into controversies on this point.

seen.<sup>2</sup> The individual has three components: reason, spirit, and the desires. Only when reason is able to do its proper task, that of ruling the whole, can the other parts perform their own proper tasks; when this comes about, all the components are in the right relation to one another and so justice results as the virtue of the person as a whole, the virtue enabling him or her to live virtuously, and so happily. Since justice is the same in city and individual, it may seem obvious that justice will result in the city when we find the same relationships among its components as we find among those of the individual.

And this has understandably been the main focus of study of justice in the city. In Kallipolis people's lives are so organized that they function within their appropriate type, of which there are three. The producers, mostly farmers, provide the infrastructure of the city's life, and are taken to be focussed on the satisfaction of their own desires, and on the means to this, mainly money. The auxiliaries are focussed on honour and status, and form the military part of the city. The rulers or guardians are focussed on pursuing and understanding truth, and they are the only ones in the city who can understand what is best for the city as a whole, rather than merely for themselves. Hence, although their greatest wish is to spend their time in intellectual pursuits, they have to rule the city in turn, since they are the only ones in the city with the right temperament and training to translate their intellectual understanding into practice which is in the interests of all, and so productive of virtuous, and so happy, lives for all the citizens.

The rulers rule and the other citizens obey; there is an extreme asymmetry of power. Plato is completely unworried by this. The guardians are not accountable for what they do or for the orders that they give to the others, even though they may lie and mislead in ways forbidden to the others. Kallipolis is not a transparent society, nor one where ordinary citizens participate in the ways that their lives are organized. Rule of this absolute kind is appropriate, according to Plato, only where the rulers actually do have the kind of understanding that a ruler needs to rule well, and it would be as absurd for such a ruler to be accountable to the ignorant as for an expert in a practical skill to defer to a layman. The

<sup>2</sup> Recent exceptions to this general attitude are Schofield (2006b) and Lane (2010). Morrow (1993), in his magisterial work on the *Laws*, notices that the *Republic* does contain the rule of law (pp. 577–83), but this point has not been prominently taken up.

rulers of Kallipolis will have this understanding, in Plato's sketch of the society, and a fairly large part of the work is devoted to a sketch of the long stages of formation and education that they will go through in order to be able to achieve such understanding.

It is thus the rulers' formation and education, their *paideia*, which is crucial for both setting up and maintaining an ideally virtuous city. This is stressed so unrelentingly that it is not surprising that accounts of Kallipolis do not emphasize laws, sometimes indeed not even mentioning them. Law is, however, pervasive in the *Republic*, and taking account of this often underappreciated fact helps us to see more clearly what the work's relation is to the *Laws*.<sup>3</sup>

## The Normality of Law

In the ancient world readers (more likely hearers) of the *Republic* would assume that of course Kallipolis has laws; any city has to have laws. This is an implicit background assumption throughout the work, unmarked as assumptions tend to be when the audience finds them obvious. (Hence the later apocryphal story where Diogenes the Cynic complains to Plato that there was no need to write the *Laws*, since he had already written the *Republic* about a city with laws.<sup>4</sup>) Thrasymachus assumes that cities pass laws in the interest of the rulers.<sup>5</sup> Glaucon describes the origins of justice as a compromise that results in laws.<sup>6</sup> The laws are, along with the poets, a source of information about the gods.<sup>7</sup> In actual cities, young people who prematurely acquire the ability to argue come to despise the laws and to be filled with lawless behaviour (*paranomia*).<sup>8</sup> Treating the laws unseriously leads to passing laws that are ignored, and to the destabilizing of beliefs about value.<sup>9</sup>

Moreover, a tight connection between law and individual character appears to have been readily assumed. Protagoras, in the dialogue named after him, follows an account of the education of the young by

<sup>3</sup> Here I am modifying the account in my (1981) 105–6. For a more detailed account see my (2012).

<sup>4</sup> Stobaeus III 13.45. Lane (2013) underlines how unusual it is when Plutarch represents Lycurgus (in his *Life*) as getting Sparta to function with laws learnt by heart but not written down.

<sup>5</sup> *Republic* 338d6–339a4.

<sup>6</sup> *Republic* 358e2–359b5.

<sup>7</sup> *Republic* 365d9–e2.

<sup>8</sup> *Republic* 537e4.

<sup>9</sup> *Republic* 426e3–7, 538d6–e4.

commenting that the laws take over this task, and make the young live 'within' the laws in the way they are taught to write, literally, between the lines the teacher draws.<sup>10</sup> In the *Republic* we find that our desires are disciplined by the laws, though some can emerge as lawless (*paranomoi*) in our dreams, and in the tyrant's waking life.<sup>11</sup> Kallipolis is described so as to be like a normal Greek polis as far as having and enforcing laws goes.

*Nomos*, the Greek term for law, applies not only to officially established laws but also to some socially sanctioned customs, sometimes called 'unwritten laws'. Laws are thought of together with ways of life: a philosopher, says Socrates, might persuade people to adopt the laws and ways of life he establishes, and in two famous passages he talks of starting from scratch with the young, writing laws on a clean slate, and bringing them up in different ways and laws from those of their parents.<sup>12</sup> There are also *nomima* (a term which has no directly corresponding English word), matters which are too specific to legislate, but are taken very seriously by society. In Kallipolis the rulers will respect *nomima* such as courteous manners of the young to the old, appropriate fashions in clothes and haircuts and the like. Learning these socially sanctioned kinds of behaviour is an important part of their education.<sup>13</sup> Even in actual, non-ideal society some *nomima* are correct in that they implicitly reflect Plato's own account of our psychology—actions are taken to be fine or shameful, for example, according to the way they reflect the dominance of the better or the worse aspect of the person.<sup>14</sup>

## Lawgivers for Kallipolis

The most familiar aspects of the sketch of Kallipolis as an ideally virtuous city are the regulations for the behaviour of the three different types of people in the city, which are strictly distinguished and kept to their

<sup>10</sup> *Protagoras* 326c6–e1.

<sup>11</sup> *Republic* 571b3–c1, 574d8–e2.

<sup>12</sup> *Republic* 502b3–8, 501a1–7, and 540e4–541a7.

<sup>13</sup> *Republic* 425a7–b5, 537d1–3.

<sup>14</sup> *Republic* 589c6–d3. For a practice to be *nomimon* is for it to have some claim to legitimacy (I owe this point to Franco Trivigno), whether in terms of written law or of socially agreed sanction. There is a famous passage in *Republic* (475b4–480a13) where 'the many *nomima* of the many about the fine and other things roll around between not-being and purely being' (479d3–5). This claim is not intended to undermine the rulers' teaching others beliefs about what fine and just things are *nomima*, since the rulers turn out to be people with knowledge about this, not just the beliefs which 'the many' have.

functionally optimal roles. This is the most original and outrageous aspect of Kallipolis, and it tends to draw our attention away from the point that the city is set up by lawgivers in accordance with a law code, and is in this respect like an ordinary Greek city, which would have a code of laws ascribed to human or divine lawgivers. Kallipolis is built up via the discussion between Socrates and his two interlocutors as they conceive of themselves as the city's lawgivers. At the start of the discussion of the type of education needed to produce the rulers, Socrates produces examples of bad stories which falsely present the gods as quarrelling and as producing evils for us humans. 'We,' he says, 'will not allow' these stories; nobody in Kallipolis will be permitted to say these things, if the city is to be well governed (*eunomeisthai*). Adeimantus, with whom he is talking, says that he likes 'this law', and votes for it. Socrates goes on to say that this is one of 'the laws (*nomoi*) and patterns (*tupoi*) that poets must conform to', and the discussion concludes with Adeimantus saying that he agrees with these patterns, and with putting them into law.<sup>15</sup> The idea of legislating for the city, producing laws for its citizens to obey, is presented as a natural way of describing an ideally virtuous city and the way its people should behave. This pattern is followed in a number of cases. Glaucon is told, for example, that 'this is how you will legislate in the city being founded', about proper non-sexual erotic conduct, as well as about medicine, judging, the role of women, and the extended use of family terms.<sup>16</sup> Hence we find that there must always be in the city an element of the same reason (*logos*) as the one 'according to which you, Glaucon' laid down the laws.<sup>17</sup>

Socrates also represents himself as a lawgiver, together with Glaucon, saying often that 'we', the two of them, have laid down the laws for Kallipolis. 'We', for example, Socrates says, were not too ideal in legislating that women as well as men should be rulers.<sup>18</sup> These references to lawgiving, their frequency, and the thoroughness with which they are followed through show that lawgiving is here not just a dispensable

<sup>15</sup> *Republic* 380b3–383c6–7. There is a fuller discussion in my (2012) of the passages discussed in this chapter.

<sup>16</sup> *Republic* 403b4–c2, 409e4–410a4, 458c6–d4, 463c6–e1.

<sup>17</sup> *Republic* 497c7–d2.

<sup>18</sup> *Republic* 456c1–3. See also 534d3–e1, 417b6–8, 471c1–3.

metaphor for describing the setting up of Kallipolis. Socrates and his interlocutors are also described occasionally as founding the city, or as bringing up the citizens, but these are not alternatives to the idea of lawgiving, but expansions of it. The way that Kallipolis is founded as a city structured by laws as well as a city set up on the basis of dividing people by type is important for an all-round understanding of Plato's conception of the ideally virtuous society. If an aim is important for achieving the ideally virtuous society, Plato takes it that no argument is needed for it to be taken as an appropriate object for legislating. The need to 'breed' well is taken just to be the need to legislate the marriage festivals. Mathematical studies are important in the rulers' education, so they are required by law. The need to get rid of 'undesirable elements' in the city is represented as the need for a legislator to act as a doctor in cutting them out. The importance of unity in the city is put forward as its being the highest good for a legislator to aim at.<sup>19</sup> It is not surprising, then, that Kallipolis is presented as an example of 'good law and order', *eunomia*. A *eunomos* city is one governed by law and where the citizens are obedient to law. It is as such a city, a shining example of good law and order, that Kallipolis is characterized as having people who devote their lives, and health, to doing their jobs; as being a unified society, where everyone is pleased and grieved by the same things; as being a society which rejects traditional poetry because of its effects on the citizens' souls.<sup>20</sup>

In fact, once you start looking, you find that laws are mentioned frequently in the description of the citizens' lives. The rulers will choose a suitable place for their 'camp', in part to control those inside in case anyone refuses to obey the laws. They will not change any of the crucial laws which structure the rulers' education. The citizens will be in every way at peace with one another as a result of the laws. Having women as rulers, the abolition of the nuclear family, the regulation of births, and rewards for bravery in war are all called laws (*nomoi*).<sup>21</sup>

<sup>19</sup> *Republic* 459c6–460a6, 525b9–c6, 564b9–c5, 462a2–7.

<sup>20</sup> *Republic* 406c1–8, 462d1–3, 605a2–b5, 607b2–c8.

<sup>21</sup> *Republic* 415d6–e3, 445d9–e2, 465b6–7, 453c8–d2, 457b7–c8, 461b3, e2–3, 465a1, 468b13–c3, 471c1–3.

## Law, Character, and Education

I have pointed out that much more of the characterization of Kallipolis is done in terms of law than we tend to bear in mind. So far, however, it might be that it is merely that the institutions of Kallipolis are described in terms of law because that just is the default way of describing the set-up of any city, even an ideally virtuous one. However, law in the ideally virtuous city is more deeply rooted in Plato's thinking than this. Not just the city's institutions but the characters of the people in it are described in terms of law.

The rulers all go through the shared system of education, which is set up by laws which are foundational to the city. This forms their character, which is thoroughly law-abiding and law-enforcing. Before developing this for the rulers' good character, it is interesting to see that the mutual dependence of character and formation by a system of law is followed through for faulty character as well.

The decline, in Books 8 and 9, of the virtuous person is familiar as a series of increasingly destructive choices made by an individual at the four stages of timocrat, oligarch, democrat, and tyrant. This is a decline in character; at each stage the person's character has been worsened by previous choices and way of life, so that each further choice leads to an even worse character and way of life. It's less familiar, though equally stressed in Plato, that this degeneration is also a progressive rejection of law. The timocrats come to value military honour more than virtue—and they do things like spending others' money because they run away from the law like children running from their father. They do this because they have been brought up by force rather than persuasion—an idea which will have resonance in the later work.<sup>22</sup> The oligarchs come to value money over all other ends—and they pervert existing laws, while they and their families don't obey them; then they force through divisive laws which widen the inequalities between rich and poor.<sup>23</sup> The democratic person refuses to give any of his aims priority in his life—and people in the democratic state get so fond of freedom that they end up not paying attention to any laws, written or unwritten.<sup>24</sup> The tyrannical type of person is dominated by a single desire—and when he is no longer subject

<sup>22</sup> *Republic* 548b4–c2.

<sup>23</sup> *Republic* 550d7–10, 551a12–b1, 555c1–5.

<sup>24</sup> *Republic* 563d3–e1.



to the laws he acts out desires in waking life which in an ordinary city people repress because of the laws. The actual tyrant is the person furthest from philosophy and reason and also furthest from law and from order.<sup>25</sup> Bad and weak character, then, corresponds closely to disrespect and contempt for law; character gets worse as this contempt gets ever more extreme.

Good character, correspondingly, goes along with respect for and obedience to law. A good person suffering a serious loss, we are told in one passage, goes along with reason and law which tell him not to succumb to emotion. One part is susceptible to emotion, but another part is ready to obey the law and to do what the law bids. Here the content of the law is remarkable, anticipating some Stoic thoughts. The law tells the person that it is most fine not to grieve, that it is unclear whether the outcome will be for good or for ill, that human affairs are in any case trivial things, and that grieving gets in the way of useful deliberation about the situation.<sup>26</sup> The law gives such specific advice in the context because it is here identified with reason, which understands what is best for the person as a whole, not just the aspect immediately affected. The same is true of the passage at the end of the main argument, where Socrates puts forward unflinchingly the view that we should all be ruled by 'the best', so that someone weak in reason should be ruled by reason 'from outside'. It is best for all to be ruled in this way by divine reason, 'so that as far as possible all may be alike and friends'. This passage is notorious; less familiar is the immediately following point: 'The law makes it clear that this is what it intends, in being an ally to everyone in the city'.<sup>27</sup> Again, the content of law and of reason converges; the law presents reason to the citizens in a directive way. In the *Republic* Plato takes it for granted that this will be done by force and also by persuasion;<sup>28</sup> he does not analyse this further, though we can see from this passage that the rulers' thinking will already align with what the law demands, so that it is only the other citizens, whose exercise of reason is encumbered by their desires and ambitions, who will experience the demand of law as reason demanding from 'outside' them. Law is in the *Republic* treated generally as reason applied in the city, the directive

<sup>25</sup> *Republic* 574d8–e2, 587a8–12.

<sup>26</sup> *Republic* 604a1–d1.

<sup>27</sup> *Republic* 590c7–e2.

<sup>28</sup> Cf. *Republic* 519e1–4 (translated below), where we find 'persuasion and necessity'.

aspect of reason. There is no analysis of the form of law, or of how the application of law is to correspond to the uses of force and of persuasion.

Law, then, works with reason, and seems generally to be thought of as the directive application of reason, though without explicit discussion of how it does this, or in what form. In the earlier books which describe the rulers' education (*paideia*) law is sometimes said to work together with this education, as is appropriate given that this aims to develop their reason. A long passage in Book 4 shows that law and education are envisaged as working together. The passage goes from 423c6 to 427b1, and is important to look at in detail, since it has been used to defend the claim that the rulers of Kallipolis are *not* bound by laws in the way they rule.

It is vital, Socrates begins, to keep the different types of people distinct so that unqualified people do not get to be rulers. This will actually be simple to do (*phaulon*) as long as one important point is kept in mind—not just important (*mega*) but crucial (*hikanon*).<sup>29</sup> This is the education and upbringing of the rulers. 'If they are well-brought up and become moderate (*metrioi*) they will easily discern all these things as well as other things that we are now leaving out, and the acquisition of wives and marriages and procreation—the point being that all these things should be ordered in accordance with the proverb that friends are the ones who share.'<sup>30</sup> This will start improvement rolling forward, Kallipolitan education rendering each generation better equipped to improve the following one.

The rulers must stick fast to this system of education. Innovations in education are forbidden, since these are more dangerous than they may seem; they inevitably lead to changes in the city's laws. Once people get the idea of changing education and culture, lawlessness trickles in; starting with individual characters it spreads to their activities and organizations, and finally to laws and constitutions. To avoid this, the rulers when they are children are to play games which are ordered and law-abiding; otherwise they will never grow up to be law-abiding and

<sup>29</sup> 423 d8–e2. *Hikanon* cannot here have the suggestion of 'merely sufficient' or 'just adequate', as this would make no sense of the contrast with 'important'. It must indicate something decisive or critical for the success of Kallipolis.

<sup>30</sup> This looks like a reference forward to the proposals of Book 5, but in the present context it does not change the general point about the importance for the city of the rulers' education.

good people. Law-abidingness (*eunomia*) must be introduced into their play from the very start.<sup>31</sup>

People educated in this way, Socrates continues, will rediscover for themselves ways of acting which are *nomima*, in accordance with social norms, in matters too context-dependent to be subject to legislation; the rulers' education will thus result in good, virtuous people who don't need legislation on such matters (425a8–c8). What about regulation of the market, the town, and the harbour? There are matters of contracts, market contracts between people, contracts for work, cases of abuse and assault, lawsuits, empanelling juries, market and harbour fees, and general market, town, and harbour regulations (425c10–d6). Here we get a crucial point: 'It's not fair to command (*epitattein*) men who are truly good; they will easily discover what needs to be regulated by law'—as long as they are able to keep firmly to the laws already set up for their education (425d7–e4). There follows an extensive contrast with cities which are forever legislating about things like contracts, taxes, and so on, to no effect, not realizing that it is the lack of a proper education and character formation in themselves which renders all their efforts useless. The true lawgiver, Socrates summarizes, would have no use for this kind of law in an ill-governed state, since it is useless. Nor will he have use for it in the well-governed state, since some will be obvious and others (the informal ones) will flow naturally from the virtuous ways of life.

More than one point about law in Kallipolis can be drawn from this exceptionally rich passage, but nothing in it suggests that the rulers are to rule without law, or to feel free to overrule laws or to extemporize without laws. Socrates is not claiming that laws and legislation are unimportant, and we have seen already that Kallipolis has laws the way any Greek city does. The important point here is that good education will produce people of good character who will develop good character in the next generation, thus starting an ongoing process of improvement—as long as the basic laws about education remain untouched. It is the lack of this education for good character in actual cities which reduces their law making to mere puttering around.

Once the good education has its effect and we have people of good character, they can take over the role of lawgivers for matters which are

<sup>31</sup> *Republic* 424b3–425a6.

less important than the education which produces good character. Hence the original lawgivers (Socrates and interlocutors) do not need to produce laws for matters like the day-to-day regulation of courts and contracts, or harbour fees. They can be confident that these minor regulations will be in the spirit of the good major laws, both because these laws are good and because the regulations will be produced by people whose characters have developed well because they were brought up according to those laws. This is why, as with the context-dependent *nomima* like manners, we do not need to give orders to people who are perfectly capable of working out for themselves what they need to do. (Plato's use here of the term 'command', *epitattein*, is of interest; it is what the laws do in the *Laws*. As Plato would later see it, if the rulers are good there is no need of laws giving them commands about managing the harbour; they can produce these laws and regulations without the help of further laws to command them to do this.)

There is nothing in this passage which claims or even suggests that the rulers will run the courts and markets without laws, improvising as they go, or that they will set up laws for this but feel free to overrule them when their own judgement differs. Their task is precisely to *establish needed laws and regulations* for markets and so on, not to manage the city without them. They will frame these laws well because of their good education, and since that education brought them up to be thoroughly law-abiding, there is no reason to think that when they establish these laws about courts and harbours they will not be law-abiding when they run the courts and harbours.

Clearly there is a distinction between the laws which structure the rulers' formation and education, and the laws which they establish once they are running Kallipolis. A notable example of this is of course the so-called 'noble lie' established by the rulers to create an 'ideology' for Kallipolis; this is perfectly in accord with the laws structuring the rulers' education, even though it uses opaque means to organize the lives of the other citizens.<sup>32</sup> The foundation laws which structure the rulers'

<sup>32</sup> *Republic* 414b–415d. A problem has been raised on the grounds that all the citizens are to accept the myth, although the first generation to establish it must be aware of its artificiality. But rulers well brought up would not be worried about a practice being opaque to some but transparent to them, if they understood that this was in the interests of all. For the idea that the 'noble lie' is part of an ideology of the city see Schofield (2006a) chapter 7.

education have produced their good characters, and have also produced *eunomia* in their souls, so that it would be unthinkable for them to run the city in arbitrary ways rather than establishing laws to run, for example, the courts and harbours. These latter laws are produced in the context of the day-to-day running of the state, and so their proper establishment needs experience of that and not just of the basic principles establishing Kallipolis, so Socrates does not go into detail about them. But there is no reason to think that they are not really important or could be taken lightly. This passage does nothing to show that rulers in Kallipolis do not enforce the laws like rulers in other Greek states. It will be as enforcers of laws that the rulers will force the other classes where force is required.<sup>33</sup>

It is bound to seem unfamiliar and strange to us that the major laws of the state are those establishing the rulers' education, while it is left to them to set up laws not only for running the harbour and markets but also, as the passage above makes clear, the courts. Our assumptions about law tend to go the other way: we think that the courts, with 'lawsuits, empanelling of juries, and cases of abuse and assault', will be basic for the city's laws. But in Kallipolis the courts are a minor detail compared to the all-important education of the rulers. In the *Laws* there is an elaborate and in some ways innovative court system, but in the *Republic* courts are reduced to a matter of day-to-day running, like the markets, and they have nothing to do with the important laws that are foundational for the city. In similar downgrading of an important aspect of Greek city life, Plato establishes no political institutions in Kallipolis which establish or examine laws on a continuing basis. This is explicitly one of the things he is trying to get rid of.

Moreover, Plato tells us nothing about the procedure for establishing these more minor, circumstantial laws. We have a blank where it would be helpful to find out how the rulers' virtuous expertise is translated into the content of these laws. Once again, however, there is nothing here or elsewhere to suggest that these are not serious laws to be obeyed, or that

<sup>33</sup> This is one lesson of the passage at 590c8–d6, where those weak in reason are to be 'enslaved' to the person containing 'the divine ruler', not against their interest as Thrasy-machus thought, but because everyone should be ruled by what is divine and intelligent, whether internal or external to them. This can be seen as a kind of prefiguring of the role of law in the *Laws*.

the rulers' expert judgement is to produce case-by-case decisions rather than application of a law. Indeed, Plato's language rules this out: what the rulers will easily discern is precisely which things need to be *regulated*, to be done according to *law*.<sup>34</sup> We have no reason to think that the rulers are ever thought of as ruling without laws, or in ways that subordinate either the content or the application of law to their own judgement.

In the long passage just discussed we can see the way in which law and education work together, neither given priority. The rulers are brought up to have good character by their learning to be law-abiding and to reject lawlessness. In coming to have the virtues—courage, temperance, wisdom, and justice—they have already come to have an attitude of conformity and obedience to the laws; that is why Kallipolis is *eunomos*, a city of good law and order. Being *eunomos* is the goal said to be the aim for Kallipolis and its citizens five times; *eunomia*, the disposition to create and conform to good law and order, is the crucial element of the rulers' education, one they must above all strive to pass on to their successors.<sup>35</sup> Coming to obey the laws, then, generates progress in coming to have good character. Learning to be law-abiding and learning to develop good character are not assigned to distinct processes; they are seen in general terms as parts of the same process, the education, *paideia*, that will produce virtuous rulers. So it is not surprising that the rulers, often called 'guardians', *phulakes*, are also called 'Guardians of the Laws', *phulakes tou nomou*.<sup>36</sup>

We can now see that the role of law in a well-known passage in Book 7 is less surprising than may at first appear. To the complaint that in Kallipolis the rulers have a worse life than they would otherwise have had, Socrates replies,

You are forgetting that the law is not concerned to bring it about that any one class in the city should be outstandingly happy, but rather to contrive that happiness should come about in the city as a whole. It [the law] fits together the citizens by means of persuasion and necessity, making them share with one another whatever benefit each group can contribute to the community. It [the law] produces men of this kind in the city, not to let them turn in

<sup>34</sup> *Hosa dei nomothetēsasthai*, *Republic* 425e1.

<sup>35</sup> *Republic* 380b6–c3, 406c1–8, 462d8–e3, 605b2–c4, 607c3–8. The importance of *eunomia* in education is mentioned at 425a3–6.

<sup>36</sup> *Republic* 421a6–7, 504c7. In the *Laws* there are officials called *nomophulakes*.

whatever direction each one wishes, but to make use of them itself towards binding the city together.<sup>37</sup>

The law is seen as holding the city together, because it puts into practice the right reasoning shared by the rulers, who understand what is best for the city as a whole and not just for themselves. The rule of law and rule by people of good character are thus seen as coming to the same thing; Plato does not see them as alternatives, and throughout the *Republic* sees them as working together to the same end, namely the life of a city where people can live happy lives by being brought up in conditions that will favour exercising the virtues rather than traits like greed and injustice.

## Law, Virtue, and Feasibility

Far from ignoring or downplaying the role of law, then, the *Republic* gives it equal emphasis with the development of good character in the rulers. When he comes to write the *Laws* Plato is working from the same material, not bringing in the rule of law as though this were news. The fresh perspective that we find in the *Laws* comes from Plato's new approach to the issue of how the ideally virtuous society is to be envisioned and what kind of realization it can have. We shall see that the new perspective enables Plato to take further some issues which are left hanging in the *Republic*.

What exactly is the relationship between law and the development of virtue? Plato takes it for granted that virtuous people will be law-abiding, that virtue develops through being law-abiding and that any falling away from being law-abiding will be reflected in the degeneration of character. Since in the *Republic* he is talking about ideal law and ideally developed character he is in no danger of sliding into thinking of virtue as merely being deference to actual laws, a tendency to follow existing rules without worrying whether or not they are the rules that virtuous people should follow. Thus he takes for granted the mutual sustaining, in Kallipolis, of law and the development of virtuous character. What form does this take? Plato does not give us a specific account of this. As already pointed out, he shows no concern for either the specific form laws are to take or

<sup>37</sup> *Republic* 519e1–520a4.

the role laws are to play as citizens are to be got to live virtuous, and so happy, lives by means of force and persuasion.

Do the rulers develop virtue by learning to obey the laws, so that it is because of the excellence of these laws that people brought up to obey them develop virtues, rather than other traits? Or do the rulers develop virtues, rather than other kinds of trait, because of their education, while the laws of Kallipolis are excellent because they produce these characters and not others? This is not an alternative facing Plato: it is because the system of education is established by laws that the rulers develop good character, and it is because good character is firmly law-abiding that they continue to obey these laws and sustain the system of education. There is no divergence between what the rulers learn as they are brought up and obeying Kallipolitan law, nor between the degeneration of characters who fall away from Kallipolitan education and the results of failing to obey Kallipolitan law.

From the point of view of the rulers being educated, there is no problem. They begin by following rules and laws because those are the rules, which they may resent as checking their own impulses to self-concern. As they grow up, they develop virtues like courage and temperance, which are encouraged by a law-abiding temperament, and the more virtuous they become the more they will see the laws positively, as enabling them to develop virtues rather than other traits. This is a familiar holistic, 'bootstrapping' way of proceeding.

From the viewpoint of the lawgivers, though, there is more to say. Kallipolis is set up, as has been stressed, by means of laws established to achieve good for the city, most importantly virtuous characters in the citizens. Yet the substantial discussions of the city's aims, and of the citizens' virtues, always take for granted, rather than explore, the relation of virtue to law and to the city's values. Socrates and his interlocutors take their lawgiving and their establishment of the rulers' education to be obviously parts, mutually supporting and of equal importance, of the same project, namely producing a good society whose members are virtuous, and so happy.

Does this constitute a problem? If we are thinking of Kallipolis as an already functioning society described for us as ideally virtuous, there seems to be no serious problem. A problem arises, however, because of two other things going on in the *Republic*. One is the uncompromisingly radical nature of Kallipolis and its structure and institutions. The other



is that in some places Plato appears to claim that Kallipolis is a *feasible* kind of city, that there could be a way of getting from where we are to Kallipolis.

The radical nature of Kallipolis is obvious; it has been the most unsettling thing about the *Republic* from ancient times onward. The rulers, 'guardians', rule on the grounds that only they have a grasp of what is best for the city as a whole. Their rule is completely unaccountable to the other citizens, who have no recourse against them. Among other points, the rulers are allowed to lie to the other citizens when this is in their (the citizens') interests, but the other citizens are strictly forbidden to lie to the rulers. The 'auxiliaries' are the military arm, putting the rulers' commands into action and so keeping the rest of the population in order. The third part of the population, envisaged mostly as farmers, have all the money, but no political power, on the grounds that they lack a grasp of the interests of society as a whole, understanding only their own interests and aims. Even before we get to the many implications of this fundamental division of citizens, it is clear that both to Plato and to his contemporaries Kallipolis is uncompromisingly and unapologetically *different* from any society that they had experienced or heard of. We aren't being asked to think of a society that we could get to by altering and expanding some known institutions—indeed, this idea is ridiculed. Plato makes the point, forcefully, that we will never create an ideal society, one with virtuous and so happy citizens, by trying to improve our institutions.<sup>38</sup> These are fundamentally misguided; we need a radical break, a clean sweep. He uses the metaphor of an artist who needs a clean surface on which to draw something new,<sup>39</sup> and insists that when we are trying to create something which is ideal of its kind it is wrong to restrict the investigation to what we could bring about.<sup>40</sup>

This is unproblematic if Kallipolis is an ideal which we are to aim to live up to as individuals, as is made quite clear at the end of the main argument, where Socrates says that whether or not this city has ever existed in the real world doesn't matter: it is, in the famous phrase, 'laid up in heaven' for us as individuals to conform ourselves to as we aspire to become virtuous, described in terms of settling our internal politics.<sup>41</sup> Here it is clear that the final message of the *Republic* is its answer to the

<sup>38</sup> *Republic* 425d7–427a7.

<sup>40</sup> *Republic* 472d4–473a2.

<sup>39</sup> *Republic* 501a2–c4.

<sup>41</sup> *Republic* 592b2–5.

challenge Socrates took up in Book 2: show me, the individual person, that it is better for me to be virtuous even in the worst possible circumstances of the actual world (a world where I might be virtuous but misrepresented, tortured, and killed). The answer, at the end of the main argument, is that once we have achieved understanding of what virtue really is, it is better to be virtuous even in those circumstances. The ideally virtuous city is a model for what it would be to be virtuous in circumstances where you would live a happy life being virtuous, and this is to encourage us to aspire to be virtuous in the actual world. In part this is by forcefully reminding us of the radical nature of the changes needed to enable you to become virtuous; your character has to be radically rethought and rebuilt from the ground up, just as Kallipolis presents a radical alternative to actual societies, rather than merely an improvement on some of them.<sup>42</sup> Plato stresses, when talking about Kallipolis and the individual, that justice is the *same* in both.<sup>43</sup> It is the relation between the well-functioning parts of a whole which functions well when they all do. It is this relation that we are to aspire to produce in our own souls, however radical the change, and the structure of Kallipolis helps us to see this.<sup>44</sup> How this is to be translated into action in the actual world will depend on the kind of city the individual lives in; all Plato expects for most people is that they will live a just life 'sheltering behind a wall' in an unjust society.

There are passages, however, where Plato talks about Kallipolis as though it were not just an abstract model to aspire to, but a political structure that might be actually feasible, a political structure that could be brought into being from the present state of human nature and society. The structure of Kallipolis, he claims, does not make demands which are beyond human nature. This is stressed most, as we would expect, in the passage about women becoming rulers and having the same physical and intellectual training as the male rulers, and in others where appeal is made to nature.<sup>45</sup> There are also more general passages

<sup>42</sup> *Republic* 367e1–4, referred back to at 588b1–4, 592b1–4. I discuss this theme more fully in my (1999) chapter 4 and (2000).

<sup>43</sup> *Republic* 435a5–67, especially b1–2: 'a just man will in no way differ from a just city in respect of the form of justice, but will resemble it'.

<sup>44</sup> It is quite beside the point to imagine the lives of the rulers in Kallipolis as an ideal for the individual in this world, though many literal-minded readers have done this.

<sup>45</sup> *Republic* 375b10–e6, 452e3–453c4, 456a10–b9, 466c5–d3.

where Socrates insists that the ideally virtuous city they have been building up is not just wish fulfilment (a matter of our 'prayers', *euchai*). Rather, it is a matter of difficulty as to how to bring it about.<sup>46</sup>

The issue is complicated by the fact that Socrates' general answer to the feasibility problem, one marked with some fanfare, is that Kallipolis can be brought about when, and only when, philosophers can be the rulers in cities, rather than playing their present ineffectual and often malign role. Unsurprisingly there is a long history of disagreement about this claim.<sup>47</sup> Since we find from the *Republic* that true philosophers are the product only of the long and highly idealized education sketched in the central books, the claim can be understood as the assertion that Kallipolis can come about only given the kind of ideal laws and education system that the dialogue insists on. If so, Kallipolis cannot actually be realized now or in similar circumstances to ours. Plato's claim would be rather that human nature is capable of aspiring to ideal development.

This is emphatically not the message that anyone in our societies should go out to dig foundations for Kallipolis. After all, the overall argument of the *Republic* is that it is better for me, the individual, to be virtuous even in the worst circumstances that could befall me in the actual world. The claim that Kallipolis could be brought about in ideal circumstances, if it is to be relevant to the argument, has to be taken as the assertion that human nature is up to the task of becoming virtuous enough for us to be able to live happily; the problem is not human nature but our terrible society and culture. We are, the claim goes, capable of becoming virtuous in a way that would make us fit to be citizens of Kallipolis; it is not beyond human nature for us to change our characters in the radical way required for us to live virtuously, rather than uselessly tinkering with the characters our faulty societies have impressed on us. This would require a radical conversion, but if the virtuous city is a possible object of aspiration so is the individual's virtuous character.

There are other passages, however, which have been taken to suggest that Kallipolis is not just a possible object of our aspiration (rather than a daydream)<sup>48</sup> but a political structure that could be actualized in our world without assuming conditions that are ideal. Three of these passages are notorious. Even one occurrence of such a society anywhere, we

<sup>46</sup> *Republic* 473c2–4, 499d4–6, 502c5–7.

<sup>47</sup> *Republic* 473c11–e4.

<sup>48</sup> *Republic* 457e2–458b7. On this passage see Burnyeat (1992).

are told, even outside the Greek world, would show that Kallipolis can be brought about, either by a present ruler becoming philosophical or by a philosopher, useless in present society, being put in charge.<sup>49</sup> In another passage we are told that there is a chance that some child or children of existing rulers could be naturally a philosopher, and it's not inevitable that they will be corrupted by their environment; such a person with an obedient city could institute the relevant laws and practices and get the citizens to obey them.<sup>50</sup> And there is the most notorious passage at the end of Book 7 where Socrates sketches the idea of sending away from a city everyone over the age of 10, so that a whole generation can grow up and be educated under radically new institutions.<sup>51</sup>

What is most striking about all these passages is that if we read them to say that Kallipolis could be put into practice in our own world they produce a problem for Plato's own ideas about the fresh start and the clean slate. To put into practice the removal of people over 10, for example, there have to be people to do the sending away and educating. In the passage they are called philosophers, but they are not themselves yet citizens of the Kallipolis they are trying to bring about. They are people who have themselves been brought up under the old, disastrously wrong, and unimprovable institutions, and therefore still tainted with the defects that motivated sending away the other adults. We are told that they despise the values of the society they are about to rebuild, caring only for virtue, but this is far from having had the kind of formation that the philosopher-rulers of Kallipolis have had. How then can philosophers in ordinary cities be the ones to get us from here to there? Kallipolis can be brought about only by people who have already been brought up in Kallipolis. None of the three passages cited take this into account. It looks as though the process can never get started; there is no way from here to there. There is a circle, and no way, in the *Republic*, to break into it.

It is often thought that Plato can escape this problem, since what he is assuming in these three passages is precisely the possibility of people outside Kallipolis becoming philosophical enough to be liberated from society's corrupting thought patterns, and so able to shepherd through a radical change of the kind needed to produce an utterly different society

<sup>49</sup> *Republic* 499b1–d6.

<sup>50</sup> *Republic* 502a4–c7.

<sup>51</sup> *Republic* 540d1–b1.

like Kallipolis. This would allow the circle to be broken into. It would require the people creating the city to use force and deception on uncomprehending, and so unappreciative, people whose society was being rebuilt, but Plato is notoriously not troubled by this kind of consideration, not only in the *Republic* but in other places, like the *Statesman*.<sup>52</sup> But is it unproblematic for Plato to suppose that this kind of intervention is possible for someone who, in actual societies, never achieves more than working on his own character, and who does so behind the wall which shelters him from the dust storm of actual political activity?<sup>53</sup>

Some version of this problem has worried many of Plato's readers, and the worry intensifies when we reflect, as many have not done in this connection, on the way in which law not only pervades Kallipolis but works alongside and together with the development of virtue in the citizens. Virtue springing up in ordinary societies, however amazing given the circumstances, is nothing like this. In ordinary societies virtue not only is not produced by laws and customs, it has to be developed by rejecting the authority of these, and thinking quite outside their influence. This can lead to an independent view of what virtue is and what laws would be needed to develop it—such as we find in the *Republic*—but this, as Plato is well aware, is far from having the kind of virtue you would have if you had actually *been* brought up under such laws.

We can see, then, that there are problems for the kind of view implied in the three passages above, which suggest that Kallipolis is feasible in the sense of there being a path from society as it is to Kallipolis. Nobody who hasn't been educated under the laws and educational system of Kallipolis can have the kind of understanding that would be required to establish Kallipolis. If the aim were simply to reform an existing society, there is no reason why this could not be done by someone brought up within that society but further educated and enlightened by values not propagated within that society. But Kallipolis is the product not of reform but of total rejection of existing society and the representation of a completely different kind of society, one run by laws and institutions not accepted, or even thought of, anywhere in the world as it is. Nobody is up to *this* task who is still affected by their upbringing and education in society as it

<sup>52</sup> *Statesman* 293a–297c.

<sup>53</sup> *Republic* 496a9–497a5.

is, just as nobody is making any progress towards proper virtue who thinks that he can do so by caring a bit less about their health, status, or money. It is only when you see that you should care about your health, status, and money *only* to the extent that it sustains virtue in your soul that you are on the right lines about health, status, and money.<sup>54</sup> And similarly it is only when you have been brought up under the laws of Kallipolis that you have the sort of understanding that would be able to create Kallipolis.

There is, then, a tension between the radical nature of Kallipolis and the passages which insist that it can be brought about in our world. Sometimes this has been ascribed to naivety on Plato's part about actual political systems and their requirements, but we need not reach for psychological assumptions. It is clear that Plato has not thought through, and come to a firm conclusion about, the issue of Kallipolis' radical nature and its implications for a passage from here to there. He is clear that in actual society the virtuous person can only shelter behind a wall. But he also feels the force of the idea that Kallipolis is not just a daydream but has political substance.<sup>55</sup>

This is a point that has been made before, but it comes home with special force when we take account of the role of law in the *Republic*. It is the mutual dependence of progression in virtue and being brought up under the right laws and customs that makes it sharply clear that virtue of a kind needed fully to comprehend, never mind to bring about, an ideally virtuous society has to be a product of that kind of society, not something that could sprout up in an ordinary society.<sup>56</sup>

We can usefully consider the fact that the *Republic* gives us an account of knowledge, and the prerequisites for having knowledge, requiring a methodology utterly different from the one we see in the work itself. Knowledge, in the *Republic*, can be achieved only after years of studying and reasoning in an abstract way that relies not at all on what we can learn from our experience of the world. In the service of this ideal, all

<sup>54</sup> *Republic* 591d5–e5.

<sup>55</sup> *Republic* 457e7–458b7.

<sup>56</sup> What about divine intervention (something the Athenian seems to accept)? In the *Laws* god is thought of as reason working in the cosmos, and it is problematic to unite a proper comprehension of this with serious acceptance of the kind of random divine intervention that would be required. It is hard to see Plato in the *Republic* happily accepting the establishment of a city whose organization displays rationality on the basis of something random, even if divine.

kinds of dramatic writing, and writing that appeals to the emotions, are strictly banned. The *Republic* itself is full of this kind of writing; it doesn't pretend to be an example of what it is writing about. The contrast between the way the *Republic* is written and the way of life it urges on us alerts us to the dangers in reading its directions literally: the presented ideal world of the work is too far from ours for us to see how intervention in ours could create it.<sup>57</sup>

In the *Laws* Plato rejects the idea of philosopher rulers:

It is necessary that humans should establish laws and live in accordance with them; otherwise they do not differ at all from the most savage wild animals. The reason is this: no human has a nature able to recognize what benefits humans in forming society and, having recognized this, to be able and willing always to do what is best. Firstly it is difficult to recognize that the true political skill must care for what is common and not what is individual—for what is common binds cities together, whereas what is individual tears them apart . . . Secondly, suppose that someone did adequately grasp that this is the case, in a skilled way, and then got absolute rule over a city, with no-one to call him to account—he would never be able to abide by this resolve . . . his human nature will always urge him to greed and self-interested actions, since it will irrationally flee pain and pursue pleasure, making these prior to what is more just and better.<sup>58</sup>

It is easy to think that this is the important difference between *Republic* and *Laws*—in the former Plato thinks that the ideal state could be brought about in our world because it does not overtax human nature, while in the latter he has come to think this false, presumably because of becoming disillusioned about the capacities of human nature.<sup>59</sup> This is to

<sup>57</sup> I disagree here with Burnyeat (1992), who claims that the extreme nature of the political part of Kallipolis is designed to produce the opposite effect, namely to make us more inclined to regard it as actually feasible. 'In a sense, therefore, it takes a philosopher to appreciate the desirability and possibility of philosophic rule . . . Since, however, neither we . . . nor Glaucon and Adeimantus . . . have undergone the education that will make such grandeur of outlook . . . a settled disposition of the guardians' minds, we have to enter it imaginatively. We need fantasy, comedy, rhetorical persuasion, in order to appreciate how much better life would be under a regime that allowed little or no role to those things' (p 183, emphasis mine). It is not clear why this should lead to our thinking it more, rather than less, feasible. Burnyeat also (as Rachana Kamtekar has pointed out to me) has an extremely weak criterion for the political institutions being feasible, namely their being consistent with human nature; existing bad institutions are also *compatible* with human nature.

<sup>58</sup> *Laws* 874e7–875d5.

<sup>59</sup> This thought is sometimes accompanied by psychologizing based on biographical claims that Plato tried out *Republic*-type ideas in Syracuse, with disillusioning results. This is not a necessary part of the position that the *Laws* presents a more pessimistic view of

underestimate, however, the kind of difference we find between the dialogues. The *Laws* is not the project of someone turning to the rule of law because of disillusion about human nature. As we have seen at some length, law is central to the *Republic*, so the role of law in producing and sustaining a good society is hardly news to Plato.

In what follows I shall be arguing that Plato retains his basic position: the only society that is any good, the only one worth thinking about, is the society where people live happy lives because their lives are lived virtuously. None of our societies is even on the right lines to produce this, so it cannot be an improved version of any of them; it must be conceived in a radically different way. Plato might have abandoned this idea, but he never does. The *Laws* is another approach to working out the project, another look at the relation of law and of education for virtue in a good society. We shall find Plato doing two things. One is that he thinks again about the relation of law to education for virtue, and as a result comes up with an ambitious account of both this and the nature of law. The other is that he abandons the *Republic's* methods, and takes a quite different perspective on the right methodology for thinking about virtue, law, and politics. We need to look at the latter first.

human nature than does the *Republic*—fortunate given the shakiness of the evidence in Platonic biography and the inadvisability of relying on the *Seventh Letter*, the source of the Syracuse story. On the *Seventh Letter* see Irwin (2009), and Burnyeat and Frede (2015). The *Letter* itself speaks about replacing tyranny with establishing laws, and clearly relates itself to the *Laws* rather than to the *Republic*.



# 3

## Changing from Within

### Plato's New Approach in the *Laws*

#### Structure in the *Laws*

The *Laws* does not give the appearance of a well-structured work, unlike the *Republic*, which is organized as an answer to the challenge to defend the virtuous life. The *Laws*, set in Crete, begins with three old men, an Athenian, a Spartan (Megillus), and a Cretan from Knossos (Cleinias) starting to walk across country from Knossos to the cave and temple of Zeus. The three discuss a variety of matters, the Athenian emerging from the start as the intellectual leader; their discourse covers the aims of education, the importance of virtue, the place of pleasure in the arts, and the history of the Peloponnese. At the end of Book 3 the Athenian claims that all the material discussed so far has had a single goal: discerning 'how a city might best be run and individually how a person might best live their own life'.<sup>1</sup> This aim is similar to the *Republic's* aim, showing that the work is about the same topic discussed in the *Republic*, and that Plato has in mind an overall structure, in which the introduction prepares us for what is unveiled at the end of the third book, namely the news that Cleinias is on a committee to design a law code for a proposed new city in Crete. I shall call this city Magnesia from the start, though the name is introduced only later.<sup>2</sup>

<sup>1</sup> *Laws* 702a7–b1. The phrase of course recalls the project of the *Republic*, to find 'the same thing' in the individual and in the city.

<sup>2</sup> *Laws* 848c8–d7, 860d9–e6, 919d2–e2, 946b2–c2, 969a4–b2. The final passage raises the possibility that 'the god' might prefer another name for the city. The citizens of Magnesia on the Maeander later developed the idea that they had their origins at least partly in Plato's Cretan Magnesia. See Clay (1993).

The structure is at first difficult to discern, however, and many have concluded that Plato is no longer in control of his own literary intentions: on this view we get rather unorganized conversation prior to the task undertaken from the fourth book on, of producing a law code for Magnesia. Whatever we think about Plato's literary control, we certainly have an introduction to a discussion of the best city and the best individual life which is wholly different from the way the *Republic* introduces it as the answer to a pressing ethical question. The apparent shapelessness of the introduction to the law making has sometimes given the impression that Plato has given up on producing a philosophical rationale for his account of the best life and the best city, and has fallen back on the supposed wisdom of old men talking. (There are indeed references to the wisdom brought by old age.)<sup>3</sup>

The *Laws* is not, however, untheoretical, and the introductory conversation, while admittedly not elegantly written, is not unstructured. Plato signposts several times that the reader should hold all the material of these books together in his mind.<sup>4</sup> And a careful look at the introduction to the Magnesian law code reveals that Plato is working out a new kind of methodology for his second attempt to show what a society would be like in which the citizens lead happy, because virtuous, lives.

We can get a better idea of this methodology if we start from a general sketch of the project Plato carries out in the *Laws*.

The good city of Magnesia is a compromise between two disparate kinds of social system; so much has been clear since the work of Glenn Morrow.<sup>5</sup> One is represented by Sparta, familiar to Plato's audience, as

<sup>3</sup> *Laws* 634d4–e6, 665d1–5, 715d3–e2. Respect for aged parents and for elderly citizens generally is prominent in the legislation. The idea that Plato has given up on philosophy in the *Laws* finds its sharpest expression in Grote (1996).

<sup>4</sup> At 641d6–9 the Athenian develops a point about drinking as part of the discussion 'about laws and constitutions', and at 650b6–9 says that the test of character provided by wine is useful to the skill of politics (*politikē*). At 682e8–683a4 (the post-Trojan War settlement of Sparta) the Athenian comments that the discussion is going back to where it diverged to talk about drinking (thus taking in most of the first two books). At 685a6–b1 there is a reference back to the very beginning (625b1–7) when the three old men set out. The discussion of the Dorian League brings in at 686d7 a point about the primacy of virtue made twice earlier (631b–632d and 660d–664a). These passages are also explicitly recalled at 697a2–c3.

<sup>5</sup> Morrow (1993). Morrow himself takes Magnesia to be an 'idealized Athens', with an essentially Athenian political system set within a Spartan kind of culture, functioning as 'a message prepared for Plato's own age and for his own people' (p 592). Brunt (1993),

we can see from Xenophon's work *On the Constitution of the Spartans*. Here there was a system of compulsory public education of all male citizens, weakening their relations to their nuclear families<sup>6</sup> and focusing them on military victory and dominance. Spartans were also notable for their ready and unquestioning obedience to their laws (it is what is praised in the famous epitaph on the fallen at Thermopylae)<sup>7</sup> and also to their officials. Xenophon remarks that children were brought up always to answer to an adult, and that whereas in other places citizens prided themselves on not appearing submissive to officials, in Sparta even powerful citizens would run rather than walk when summoned by an official.<sup>8</sup>

This is a model that Plato approves of in several ways. He thinks that a good city will require a uniform system of public education for all citizens, and one focussed on a single overall aim, namely that of developing virtuous character in the citizens. And he approves of ready obedience to law rather than reluctance and foot dragging, and of regarding the law as something finished and established rather than as a work in progress to be constantly tinkered with. But Plato stresses that the aim of Spartan law, the military virtues, is too narrow, and that it does not produce understanding of the law. (This view was not merely Plato's; Thucydides makes the Spartan king Archidamus say that Spartans obey their laws partly because they are too 'ignorant' not to.<sup>9</sup>) One bad result of this is that Spartans were notoriously easy to corrupt.

especially p 259, argues that this 'idealization' would be unacceptably anti-democratic to Plato's Athens. Both underestimate the way that two different political and cultural systems are to be combined in a philosophical representation rather than a practical proposal.

<sup>6</sup> Plato's attitude to the nuclear family in the *Laws* is notoriously problematic. The envisaged society is one of nuclear farming families, and family structure is strengthened and supported; yet the Athenian insists on taking from Sparta and Crete the institution of *sussitia* or common meals (and extending it to women). How this is to be integrated into Magnesian life (or financed) is never discussed. See Morrow (1993) 389–98, Samaras (2010).

<sup>7</sup> 'Go tell the Spartans, stranger passing by/That here obedient to their laws we lie'. O *xein'aggelein Lakedaimoniois hoti tēide/keimetha tois kēinōn rhēmasi peithomenoi*. Only obedience, not bravery, is mentioned.

<sup>8</sup> Xenophon, *Constitution of the Spartans*, chapters 2, 8.

<sup>9</sup> Thucydides I, 84: 'We have good judgement because our education leaves us too ignorant (*amathēs*) to look down on our laws, and our self-control is too strict for disobeying them' (Woodruff translation). 'Self-control' (*sôphrosunē*) will be revisited in Chapter 6.

Aristotle points out that Spartans were famously greedy for money, and many of their officials were corrupt and unwilling to live their traditionally austere and repressive life.<sup>10</sup> Plato agrees; when in the *Republic* he talks about timocracy he refers to Sparta (and Crete<sup>11</sup>) as similar, and points out that in a society like this where the education is focussed only on military prowess the citizens will develop a greed for money which they will satisfy furtively, like children going behind their father's back.<sup>12</sup> Aristotle also points out that Spartan political institutions were undeveloped; he calls one of them 'childish'. Spartan conservatism left them with many archaic and clumsy forms of political organization.<sup>13</sup> A significant historical point is notable here: by the time the *Laws* was written Spartan military hegemony had collapsed, so that Sparta could no longer serve as a model for a *successful* military society.

The other kind of social system is represented by Athens. Here there was no compulsory system of public education with a clear goal; it was up to parents to educate their sons as they pleased, although there were definite cultural expectations which most parents met. Adult Athenians were free to live as they individually chose—again, within certain definite cultural limits, policed by public opinion. Athens was a highly participatory society (at least for adult males) in two ways. Athenians participated in political policymaking; all adults voted in the assembly and many took more active political roles. And given the large number of public offices, many of which were filled by lottery, an Athenian could expect to spend some of his time participating in governance and bureaucracy; Athens was run in a highly developed and sophisticated way. Moreover, it was an example of what we call transparency: all public officers underwent a scrutiny before entering on office and faced an audit afterwards. The scrutiny, *dokimasia*, simply screened for good standing, but the audit, *euthuna*, involved two committees, one to scrutinize the official's accounts and one to deal with any claims of abuse of office. Since terms of office were short, public offices had a high degree of accountability. And again a historical point is notable. Because of Plato's continuing imaginative engagement with the period of the late fifth century, with its background of the fall of Athens' empire in the Peloponnesian War, it is useful to remind ourselves that by the writing of the

<sup>10</sup> Aristotle, *Politics* II, 9.

<sup>11</sup> *Republic* 544c, 545a.

<sup>12</sup> *Republic* 548a–c.

<sup>13</sup> Aristotle, *Politics* II, 9.

*Laws* Athens had not only recovered from her humiliation but developed fresh aggressive ambitions. Plato had reason to think of Athenian democracy as rather resilient (if learning little from history).

For all his much-emphasized dislike of Athenian democracy, we can see from the *Laws* that Plato appreciated some of its aspects. Although he does not point out explicitly the debt that Magnesian laws have to Athenian law,<sup>14</sup> it is impossible to miss the way in which Magnesia has some of the participatory and transparent aspects of Athens. While in Magnesia citizens will not participate in law making, since the law code will already be laid down, they will participate in governing the city in ways which are, while modified to fit Magnesian circumstances, essentially Athenian. Magnesian officials will have a scrutiny (*dokimasia*) before taking up office, and the institution of the audit (*euthuna*) is taken over and enlarged.<sup>15</sup> The usefulness of the audit for avoidance of corruption, in terms of both money and power, is obvious, and Plato stresses its importance. No judge or officer is to be *apeuthunos*, exempt from audit; all exercise of power is to be accountable to fellow citizens through the mechanism of the audit.<sup>16</sup> Plato gives noteworthy emphasis to the auditors, their method of selection, their own term limits, and finally the extraordinary civic honours which they are to receive, especially at their funerals. He transfers honours given in his society from outstanding military figures to officials whose occupation is far more mundane, but essential if citizens are to be accountable to one another and removed from the temptation to be corrupted by money or power.<sup>17</sup> It is not in human nature, we are cautioned, for someone, especially a young and energetic person, to exercise power without accountability (*apeuthunos*) without becoming ruined, and ruining others.<sup>18</sup> Plato is less keen on another Athenian institution working against corruption,

<sup>14</sup> The extent of this debt is made clear by Morrow (1993).

<sup>15</sup> The *dokimasia* is mentioned at *Laws* 756e7. The *euthuna* is introduced, expanded, and dealt with at length in Book 12 (945b–948b). Morrow (1993) 215–29 has an excellent summary of the Athenian procedures and how these are modified in Magnesia.

<sup>16</sup> *Laws* 761e5–6. The procedures of appeal to the auditors and against their decisions are laid out at 945e4–948b2. The *apeuthunos* person is alternatively characterized as *autokratōr* (875b3).

<sup>17</sup> *Laws* 945b–948b, especially 946e–947e. If we miss the importance of official accountability we might find it absurd for these officials to be given honours traditionally associated with more glamorous figures.

<sup>18</sup> *Laws* 691c5–d5.

namely use of the lottery to appoint officials; this offends his insistence on expertise, and he greatly limits its use in Magnesia.

Plato is often taken to dislike Athenian democracy and to approve of Spartan institutions, but the situation is more nuanced. He denounces what he calls 'democracy' in the *Republic*, and complains about democratic bureaucracy in the *Statesman*, in both cases because he thinks that democracy is antagonistic to expertise in civic matters.<sup>19</sup> But from the *Laws* we can see his appreciation of the participatory nature of Athenian democracy, and its institutional resistance to corruption. Similarly, we can see, in the *Laws*, Plato's fundamental criticism of Spartan institutions' militaristic and unintellectual aim. We can also see his attempt to replace brutal Spartan institutions with more benign ones. For example, the *krypteia*, a body of young Spartans who 'look after the countryside' by keeping down the helots, subjected farmers,<sup>20</sup> is replaced by a body of Magnesian citizens who 'look after the countryside' by doing mundane useful things such as maintaining a clean water supply.<sup>21</sup>

Magnesia can, then, best be seen as Plato's attempt to combine the best of each system in a way which can avoid the disadvantages of each. The city is to be founded in Crete, a society resembling Sparta, but, as is clear from Morrow's book, though not advertised in Plato's text itself, much of the legislation proposed for Magnesia is a more or less modified version of Athenian law. This indeed explains why the person doing the legislation is an *Athenian* who has journeyed to Crete; elsewhere in Plato it is other people who are the visitors who come to Athens. There is no reason to think that the Athenian is just Plato's mouthpiece; he represents the specifically Athenian contribution to be imported into existing Cretan and Spartan cultures which the other two speakers represent and defend.

<sup>19</sup> The long passage on 'democracy' in *Republic* 8–9 criticizes a theoretically defined mode of rule which does not correspond to Athenian democracy. Nearer the mark is *Statesman* 298a–299e, where Plato ridicules the kind of bureaucracy that insists on audits at the end of an official's term. In the *Statesman* this is because such accountability hampers expertise. In the *Laws* Plato recognizes the benefits of accountability.

<sup>20</sup> Spartan helots were a subjected group of farmers who had to give part of their produce to Sparta. Some were in Laconia around the city of Sparta, others in Messene, a nearby conquered city of originally free Greeks, who were especially resentful of their subject status, leading Sparta to design an institution, the *krypteia*, especially to spy on them and remove any 'subversion'.

<sup>21</sup> Compare *Laws* 633b5–c7 with 762b6–763c2.

The Athenian produces what for the other two are innovations in law, innovations which are to result in Magnesia being the city in which people can become virtuous, and so happy. Obviously he is not assuming that Cretans and Spartans had no, or inadequate, laws; his opening sentence refers to their divine lawgivers. Rather, he is introducing, via the law code, a new, Athenian-based, content for laws that are to be brought into a Cretan and Spartan culture which has what he takes to be an attitude to law superior to the Athenian one. As we will see in more detail, Plato approves of the Spartan and Cretan attitude that the law and civic institutions form an established system which is finished, and to be obeyed rather than queried; however, he thinks that this attitude is not justified by the actual content of these laws. He disapproves also of the Athenian attitude that law making is an ongoing business, a normal part of political participation on the part of citizens; in Magnesia citizens will participate in governance, but not in ongoing making and modifying of laws.

Plato has not changed from being 'anti'-democracy to being 'pro' it, or any such sweeping change. His hostile view of some aspects of democracy, such as use of the lottery, remains. But he is now more discerning, separating out some aspects of democracy from others, and realizing, for example, that the system of audit is an excellent idea and that cities of the Spartan and Cretan type have suffered from lack of it. And he has warmed to the idea, decisively rejected in the *Republic*, that a city flourishes when all citizens practically and (to a certain extent) intellectually participate in running it—practically through serving as officers and so 'ruling and being ruled', and intellectually through their grasping the city's ideals embedded in the laws rather than merely following the latter as a matter of routine.

In Book 3 of the *Laws* we find the Athenian examining past history to find which kinds of political system work, as can be seen by their surviving as flourishing political entities. This examination is in itself remarkable, given Plato's previous rejection, notable in the *Republic*, of any reliance on the world we experience when we think about ethical and social matters. Strikingly, the Athenian says that the history of the Peloponnesian kingdoms of Sparta, Argos, and Messene confirms the position he has come to. He and his partners in conversation have come to the same conclusion, he says, by finding actual historical facts, so they will not be making an empty investigation, but one about what

happened, and is really the case.<sup>22</sup> Here historical fact is called 'truth' (*alētheia*), and lack of it threatens to make an enquiry 'empty' (*kenon*). This need not signal a philosophical move about truth and knowledge on Plato's part, since the Athenian is talking in ordinary terms to unphilosophical partners, but it is notable that examining past history is taken to be a legitimate part of the enquiry into the best city and the best life.

This approach is bound to strike us as quite Aristotelian, and we also find in the *Laws* 'proto-Aristotelian' ideas such as that societies are successful when they aim at the mean rather than excess, and when their political systems give power to different institutions in the state which form checks on one another.<sup>23</sup> Given that the *Laws* is plausibly Plato's last dialogue, it is reasonable to think that its writing involved intellectual interchange with his long-time pupil and colleague. Since Aristotle spent twenty years in the Academy, it is unprofitable to ask unanswerable questions such as which of them had an idea first. More likely there was a long period of interchange of ideas and mutual criticism and development. While, however, the *Laws*' more historical approach to political thinking contains some ideas which are bound to strike us as similar to some thoughts in the *Politics*, Plato does not share the kind of interest which led Aristotle and his pupils to research a large number of Greek city constitutions. He studies only those useful for his own conclusions, and his presentation of them is somewhat biased towards those conclusions. For Plato political history is important for finding confirmation in history of his ideas, not something worth doing for its own sake.

Why is Magnesia in Crete? Cretan cities struck Plato as relevantly similar to Sparta in institutions and culture; in the *Crito* the laws of Athens remind Socrates that he never left Athens to live in Sparta or Crete, which he held to be 'well governed' (*eunomeisthai*).<sup>24</sup> Crete, unlike Spartan territory, was a plausible place for a projected new city to be founded, and in the *Laws* Plato uses the familiar model of founding a new city. The foundation of a new city, with people from other cities going there to make a new life as citizens of it, was familiar to Plato's audience, and putting such a city in Spartan territory would be too far-fetched.<sup>25</sup>

<sup>22</sup> 683e8–684e1.

<sup>23</sup> This will be followed up in Chapter 4.

<sup>24</sup> *Crito* 53a1–3.

<sup>25</sup> The best-known example is the founding of Thurioi in Italy in 443 BC, settled by people from a number of different cities under the patronage of Athens.



Here two historical points are in order. Firstly, Morrow and a great many subsequent students of the *Laws* have felt comfortable talking of Spartans and Cretans as Dorians (that is, as members of an ethnic group) and in taking a contrast between Dorian and Ionian (taken to be the ethnic group including Athenians) to be a contrast of cultures rooted in ethnic differences. There are a few signs that Plato himself thinks in terms rather like this in the *Laws*,<sup>26</sup> but Plato's conception of an ethnic difference can't be easily lined up with ours, and contemporary ancient historians regard 'Dorian' as a term laden with some disputable theory. I shall avoid the term 'Dorian' and will speak of Athenian culture as represented by the Athenian, and of Cretan and Spartan culture as represented by Cleinias and Megillus. This is a bit clumsy, but safer.<sup>27</sup>

Plato also seems to know little about Crete.<sup>28</sup> He makes the claim that Cretan and Spartan governments and ways of life are similar; their laws are 'brothers'.<sup>29</sup> But he seems ignorant of important facts about Crete, such as the existence of serfdom.<sup>30</sup> And the later historian Polybius in his *Histories*<sup>31</sup> tells us in a lengthy and very irritable aside that he is amazed how otherwise reputable writers, including Plato, can think that Crete is socially and culturally at all like Sparta. In fact, he says, their ways of life are completely dissimilar. Was Plato misinformed about Crete? Had things changed radically by Polybius' day? Both are possible. We have no answer to these questions, but they should warn us that while Plato finds Crete useful for his purpose in the *Laws* it is unlikely that he ever went there, or took any independent interest in it.

Magnesia will benefit from the best in Spartan and Athenian culture and institutions. How is Plato's compromise between two different cultural systems to be achieved?

<sup>26</sup> At 680c6–d3 Megillus comments that the way of life that Homer describes is Ionian rather than Laconian. And at 682d5–e4 Plato talks of a big migration of 'Dorians' so-called from Dorieus.

<sup>27</sup> I owe my wake-up call on this issue to Cynthia Patterson. See Will (1957) and Alty (1982).

<sup>28</sup> His description of the countryside is generic, and what Cleinias tells us about Cretan geography does not go beyond common knowledge.

<sup>29</sup> *Laws* 682e11–683a2.

<sup>30</sup> See Brunt (1993) appendix A.

<sup>31</sup> Book VI, 45–7.

## Changing from Within: Enlarging Understanding

The project is set firmly in a Cretan setting; it's the Athenian who is the visitor. He presents himself as deferential to Spartan and Cretan culture; his early history of Greece in Book 3, for example, is strikingly favourable to Sparta. The work opens with the Athenian confirming that both Cretan and Spartan laws come from a god (Zeus and Apollo, respectively); conspicuously he does not mention Athenian law, which lacked a divine lawgiver. (This initial compliment turns out to be quite significant later when the Athenian discusses the nature of law.) Moreover, he at once says that his companions will be happy to discuss laws on their long walk, since they have been brought up in 'habits formed by law' (*ethē nomikoi*) of such a kind as come from divinely authored laws.<sup>32</sup>

The Athenian proceeds quite gently with his interlocutors. He does not challenge his interlocutors' initial insistence on the importance of military preparedness above everything, on the grounds that all cities are perpetually at war; instead he diverts the conversation to discussing different types of war, eliciting the admission that internal war is more disastrous for a city than external enemies, a point which will lead to the claim that the best citizen will be not the ready warrior but the person with virtue as a whole, which is needed to unite cities rather than divide them.<sup>33</sup> He smooths the introduction of a topic that will startle them by pointing out that they should avoid wholesale praise or criticism before examining the issue closely.<sup>34</sup> And rather than criticize Spartan and Cretan military institutions openly he makes the point that they lead to problems along with their advantages, pointing to something that he is confident that Megillus (if not Cleinias) will also take to be a problem (namely, the fostering of pederastic relationships within such institutions).<sup>35</sup>

<sup>32</sup> *Laws* 625a4–b1.

<sup>33</sup> *Laws* 628a9 begins the long discussion.

<sup>34</sup> *Laws* 638c2–d3.

<sup>35</sup> During the later discussion (837b2–839d9) where the Athenian proposes to make homosexual sex not only illegal but unthinkable in Magnesia, he addresses Megillus as somebody on board with this (837d7–8), while persuasion of Cleinias is postponed till later (837e5–6) and is taken to require persuasion in the form of a charm or spell (837e5–6). This probably reflects Cretan open acceptance of sexual liaisons between men and boys, while Xenophon (*Constitution of the Spartans*, end of chapter 2) claims that the Spartans fostered man–boy friendships but did not countenance sex in them.

The Athenian's deference to Cretan and Spartan institutions and culture may in part reflect the point that members of these cultures are not used to hearing their own culture being criticized and so are naturally oversensitive about it.<sup>36</sup> But more importantly it prepares us for the most striking aspect of the way he proceeds at some points, where the conversation develops in a very unexpected way. On these occasions, when the Athenian criticizes Cretan laws and institutions Cleinias is offended, complaining that the Athenian is finding fault with the Cretan lawgiver (i.e. Cretan law). This is exactly what the Athenian is doing, but on these occasions he avoids conflict and Cleinias is kept on board as a participant in the discussion even though established Cretan ways are in fact being criticized quite strongly. Interactions of this kind are helped by the early recognition that the Spartan, Megillus, comes from a family which is the official *proxenos* or host for Athenians in Sparta, and that Cleinias, the Cretan, also recognizes an inherited connection between Crete and Athens. These are not intellectual connections, but they are regarded as laying a friendly basis for the intellectual developments.<sup>37</sup>

The first occasion begins as the Athenian moves from saying how much better it is to resolve internal conflict in a state by harmonizing the combatants rather than by destroying or subduing one side.<sup>38</sup> The best aim for a state, he says, is peace. Cleinias is puzzled (628e2–5), since he has given a long speech admiringly describing how Cretan customs are all directed to war against other states, while Megillus has agreed that this is the aim of Spartan customs too. The Athenian's argument has come into conflict with their views as to what the aim of a state should be. The Athenian now does something unexpected. He does in fact strongly disagree in just the way Cleinias recognizes, and we expect the main figure in a Platonic dialogue to establish the basis of the disagreement and then begin an argument or at least discussion about it. But we do not find this kind of direct argument. Once we have read the entire dialogue and return to this passage, we realize that this is because of the

<sup>36</sup> The Athenian points out at 635d4–635b1 that in these cultures the young are explicitly forbidden to criticize the laws, and that it is only safe for old men to do so in a private conversation such as the one they are having.

<sup>37</sup> *Laws* 642b2–643a1.

<sup>38</sup> This passage goes from 628c9 to 632d7, though the Athenian's initial claims come from the whole earlier conversation from the start of the book, so any starting point is somewhat arbitrary.

intellectual limitations of the representatives of Cretan and Spartan culture. They are not used to being challenged about the basic aims of their states and are not equipped to defend them in the kind of discussion we find in other Platonic dialogues. The Athenian does something different; he *deflects* open disagreement. 'We must not now fight harshly, but question them [your laws and customs, *nomima*] gently, since both we and they are very much in earnest'.<sup>39</sup> Instead of admitting that he does disagree with Cretan and Spartan views on this, and arguing as to which is the better aim for a state, peace or war, he sets out to show that, though Cretans and Spartans don't at present recognize it, they are really in agreement with him: war is not the best aim for a state.

The Athenian takes a poem by Tyrtaeus, Sparta's best-known war poet (mythically an Athenian in origin)<sup>40</sup>, which forcefully praises warrior courage above every other thing. There are, however, the Athenian says, two kinds of war: civil war and war against external enemies. Many warriors have the kind of courage that the poet praises, because they stand firm in battle against warriors from other cities, but this is compatible with their being insolent, unjust, and stupid.<sup>41</sup> The more valuable citizens are those whose courage is devoted to ending civil war, and *this* sort of courage presupposes that the citizen is overall a good person and possesses virtue as a whole. The conclusion of the discussion, says the Athenian, is that any decent legislator (including the Cretan lawgiver, taught by Zeus) will aim only at the whole of virtue in his laws; this is what states need, whereas courage in war against external enemies comes fourth in value. Cleinias reacts more strongly than before: we are, he says, reducing the Cretan lawgiver to a very low rank of lawgiving!

<sup>39</sup> *Laws* 629a1–3.

<sup>40</sup> The poem, quoted in part both here and in the second passage, is Tyrtaeus Fragment 12 West, preserved in Stobaeus' *Anthology*. The Athenian also quotes a couplet from the Theognis corpus (77–8 *Theognidea*, West).

<sup>41</sup> Tyrtaeus' harsh and bloodthirsty poems illustrate the Athenian's claim at 630b3–8 that bravery in battle with enemies outside the city is compatible with insolence and injustice. Compare Fragments 6 and 7 West, where Tyrtaeus celebrates the way Spartans behaved to the defeated Messenians, treating them 'like asses worn out by heavy burdens, carrying to their masters half of every crop that their land bears, because of hateful necessity' and forcing them to 'lament, they and their wives, for their [Spartan royal] masters, whenever the woeful doom of death came on any'. This is exactly the kind of hybriistic attitude coming from the overvaluation of military dominance that the Athenian criticizes.

Here the Athenian again deflects what looks like unavoidable disagreement. No, he says, it's ourselves we are criticizing, in taking it to be war that Cretan and Spartan customs are all directed towards. A divine lawgiver would not have established laws to encourage a mere part of virtue rather than the whole of it. The mistake was not the lawgiver's but Cleinias'; what he should have said was that Cretan laws do in fact aim at the production of all of virtue. The laws of Crete *do* aim at producing the whole of virtue in their citizens. They are rightly admired because they recognize that virtue is not just one among other goods to aim at, but a good which is divine while they are merely human, so that virtue is the good which should dominate a society's organization and the formation of its citizens. In a good society, the Athenian goes on, everything will be shaped by the need to have citizens whose characters are virtuous.

This is a surprising thing to say, since the claim about Cretan law is on the face of it obviously false, and it appears false to the people who ought to know, the Cretan and the Spartan. The Athenian's response, however, not only avoids dispute but enables him to elicit acceptance from his interlocutors of the claim that a lawgiver will order everything for the sake of what is best, and that this will be, for a state, the happiness of both state and individual.<sup>42</sup> He also elicits implicit support for the claim that any good lawgiver will have a single overall aim, and this will be for the citizens to have the whole of virtue, not just one, such as courage, which is only part of virtue as a whole.<sup>43</sup> At the very beginning of the *Laws* we find the claims introduced that a lawgiver setting up laws for a state should have a single aim in doing so, that this should be the happiness of the citizens, and this is to be achieved only if they live virtuously.<sup>44</sup> It is perhaps a surprise to us that the claim which is the object of so much reflection and argument in the *Republic* should be introduced here so unobtrusively, but in the *Laws* it is introduced not as a claim to be explicitly discussed and defended but as something that Cretans and Spartans accept without fully realizing it—as the real, though unobvious, content of Cretan law.

Why does the Athenian do this? Why is the best society presented as though it were the real content of Cretan law? It has been suggested that

<sup>42</sup> *Laws* 628c6–7, d2–e1.

<sup>43</sup> *Laws* 630c1–4.

<sup>44</sup> This is discussed at greater length in Chapter 4.

it is just politeness,<sup>45</sup> the main aim being to keep the discussion going without conflict. But it does more work than that. The Athenian ends by wishing that Cleinias and Megillus had explained to him just how all this 'is present' in their laws, and how it is systematically obvious to someone experienced in laws, though not clear to 'the rest of us'.<sup>46</sup> Laws and customs for the best society, aiming at producing virtuous citizens, are to be found in Cretan law—but only by the expert; Cretans have to have it pointed out to them that they are interpreting the aim of their own society in too narrow, and thus mistaken, a way.

Later in the introductory conversation<sup>47</sup> the Athenian recalls this passage. He remembers, he says, and reminds the other two, how earlier they had agreed that the lawgiver must aim at wisdom, and while they had maintained that the good lawgiver should arrange everything with a view to war, *he* had insisted that this requires only one virtue out of four, while the aim should be to produce all of virtue, and mainly the leading part of it, wisdom.<sup>48</sup> At this point the Cretan and Spartan make no comment on the point that they have just been described as misunderstanding the real content of their own laws by giving too narrow an interpretation. They are taken to be on board with the enlarged interpretation of the aim of their laws which the Athenian has produced.

A passage in Book 2<sup>49</sup> has the same initially rather surprising structure. The speakers have returned for the third or fourth time to the need for poets to produce the right kind of vehicles for education. Cleinias comments that in Sparta or Crete poets don't even think of innovating. Cretan law, then, says the Athenian, commendably forces poets to produce the right kind of composition—and once again he makes the claim that what is taught by Cretan poets is in fact the claim that virtue has priority over all other goods whatever, and that they always tell of the splendid life of the virtuous and the awful fate of even wealthy and powerful people

<sup>45</sup> Schofield (2006a) 310. Meyer (2015) points out that the Athenian has a 'strategy of appealing to normative assumptions that his interlocutors find attractive' (p 97). England (1976) says *ad loc*, '[I]t must be admitted that [the Athenian] rather reads his own views into the Cretan's statement, and Cleinias must have been rather surprised (after the manner of M. Jourdain) to find that he had been a philosopher after all.' None of these suggestions show what the point is of the Athenian's strategy in the context of the *Laws* as a whole.

<sup>46</sup> *Laws* 632d1. <sup>47</sup> *Laws* 688a1–b4.

<sup>48</sup> It is *phronēsis*, *nous*, and *doxa*, together with the love and desire (*eros* and *epithumia*) which follow them.

<sup>49</sup> *Laws* 659c9 and following.

who are vicious. Even Cleinias is taken aback by this claim, and cannot go along with the idea that someone with every worldly advantage, but unjust and wicked, is not happy. The Athenian here does produce argument to get Cleinias to agree, but also remarks on the depth of their disagreement. Not only Spartans and Cretans, he remarks, will disagree with what he would insist on teaching citizens—so would others, and so they need ‘a god’ to produce agreement between them.<sup>50</sup>

The Athenian claims that ‘what is said by Cretans and Spartans, as it seems’ is that virtue as a whole, not just military courage, has priority over everything in the lawgiver’s aim. It also, however, makes clear that Cleinias does not immediately agree with the implications of this. The enlarged view of the aim of Cretan and Spartan law, it is claimed, is actually the content of Tyrtaeus’ poetry. This goes with the Athenian’s interpretative aim here, but can be confusing when we later find that the Athenian criticizes Cretan music and dancing for not producing someone not only martial but a good active citizen—someone who is in fact ‘more of a soldier than Tyrtaeus’ soldiers’ since he has the right overall priorities.<sup>51</sup> And later the Athenian openly criticizes Tyrtaeus, along with Homer, for giving bad guidance to citizens about their lives and practices.<sup>52</sup>

In Book 4 the Athenian looks back and confirms that the laws for the best society are present for the expert to find in the implicit content of Cretan law. At the start, he says, it was said that Cretan laws aim at a single object, and whereas Cleinias and Megillus said that this was warrior courage he said that it was right that laws should aim at virtue, but did not agree that Cretan laws aimed at a part of virtue rather than the whole.<sup>53</sup> The project of the *Laws*, then, is represented as being an expanded and improved version of what Cretan laws already do. The Athenian does not argue against Cleinias’ firm and enthusiastic claim that Cretan laws are all aimed at producing warrior courage and readiness for war; rather he avoids conflict, instead getting Cleinias and

<sup>50</sup> Schöpsdau on 662b1 comments that the reference to a god producing agreement emphasizes that the reasoning to follow is ‘popular’ rather than philosophical, and also that the Athenian’s claim is highly unintuitive. It is not clear why the Athenian chooses to stress such a strong claim at this point; it might be an early warning to his partners that the good state will be quite different from any that they can at present envisage, emphasizing that they have embarked on a joint task, not an effortless chat.

<sup>51</sup> *Laws* 666d8–667a10.

<sup>52</sup> *Laws* 858e1–4.

<sup>53</sup> *Laws* 705d3–e1.

Megillus, as they follow his discussion, to accept that they have not fully understood what their own lawgivers were aiming at.

Why does the Athenian present his project this way? I suggest that he sees his project as one of accepting the framework of Spartan and Cretan laws, and their systems of overall education of all citizens, but of persuading his interlocutors to accept a considerable improvement of this framework through enlarging their conception of the overall aim of laws. Plato thinks that Cretan and Spartan laws get some basic things right: the city should have a single overall aim, and this should be the happiness of the citizens; this is to be achieved only through virtuous living, and this in turn is to be achieved through strict obedience to their laws. The problem he consistently finds with Cretan and Spartan society is its overvaluation of military and competitive forms of courage, and this can, he now thinks, be solved from within: by taking over a Cretan kind of society but improving it by explicitly expanding its aim from courage to virtue as a whole. His discussion of education in music, dancing, and the other performing skills so central to Greek civic life develops this: we get a sketch which will be developed further in Books 7 and 8, where Magnesian education is described.

Why would members of such societies accept such expansion of their horizons as an *improvement*? This is especially problematic given that Spartans and Cretans were notoriously hidebound about sticking to their traditions and failing to see value in those of others. Cleinias has no doubt that it would be a great improvement if other cities introduced Spartan and Cretan strict censorship of music and dancing, which he takes to be unproblematically excellent.<sup>54</sup> Plato attacks this problem, I suggest, in the introductory conversation by having the Athenian persuade the two old men, conservative products of rigid systems, that the new elements he is going to introduce are developments of what they already accept, not alien principles imposed from without, or answers to philosophical problems that they have never thought about. He presents what he is doing as changing existing culture from within rather than changing it to accord with externally imported principles. This project calls not for philosophical argument but for considerations persuasive to unphilosophical people, considerations which will convince them that

<sup>54</sup> *Laws* 660b1–d10.



their time-honoured and deeply conservative ways of living can be improved from their own perspective. This kind of approach is suitable for people in unintellectual cultures, who are likely to be especially intolerant of changes imposed on the basis of abstract philosophical thinking such as characterizes the *Republic*.

Plato's project in the *Laws* is thus put forward in a way which respects established traditions to the point of claiming that the best society can be found implicitly in some of them, if suitably enlarged and improved. Megillus and Cleinias are persuaded to enlarge their cultural and ethical horizons and to come to see that their acceptance of the overall aim of their laws has been construed too narrowly. This takes place in the introductory conversation, before they go on to take part in the establishment of the law code for Magnesia, which is to have as the aim of all its laws and institutions the cultivation in the citizens of virtue as a whole. As characters Megillus and Cleinias are not given much substance, since what they represent is a predictable kind of conservatism, but we can appreciate why they are supposed to see this ideally good city as an improved version of their own cities and its culture as an improved version of their own cultures.

It is a further step for them to see Magnesia as requiring the kind of laws and institutions which the Athenian introduces, laws which shape citizenship in ways rather different from what their own laws do. For that, we will see that the Athenian needs also to appeal to lessons from history. Before that is broached the Athenian, throughout the introductory conversation and concluded at the end of it, gives his partners an illustrative example; we see how they can take the first step of expanding their conception of citizen education and virtue, and hence the kind of institution promoted by the citizen culture. It is an example of the way in which the representation of Magnesia, which is actually a compromise between Cretan and Spartan ways of life on one hand, and Athenian on the other—one in which both give a great deal of ground—is presented from the start as internal reinterpretation of what old and conservative Cretans and Spartans already accept.

### *Symposia* as Educational

The introductory conversation prominently features something which has seemed bizarre to many ancient as well as modern interpreters—the

Athenian persuading his interlocutors to accept, as a valuable cultural institution, the Athenian institution of the drinking party or *symposium*. This makes sense if we see it as the Athenian getting his partners to take the first step of enlarging their conception of the proper aim of a city by enlarging their conception of the virtue which a city should promote.

The Athenian talks of drunkenness, *methē*, but it is clear that what is under consideration throughout is the *symposium*, an after-dinner drinking party organized according to strict rules and etiquette, a regular institution with a recognized social function—that of bonding men among the Athenian elite, and of introducing young men to the culture of this group.<sup>55</sup> In this respect it played a role analogous to that of the common meals or *sussitia* in Sparta and Crete.<sup>56</sup> We are familiar with the philosophical discussions among the guests at Agathon's symposium in Plato's *Symposium*, and also with the way an ideal symposium, among thinking people, is said in the *Protagoras* to be a discussion rather than an occasion for heavy drinking. But the Athenian in the *Laws* is thinking of actual Athenian *symposia*, where drinking to some stage of drunkenness was accompanied by traditional songs and poetry, and it is this that he proposes to introduce into Cretan and Spartan educative culture.<sup>57</sup> What, however, could possibly be valuable about getting drunk, even to the accompaniment of poetry and singing at a *symposium*? Spartans (and presumably Cretans) drank wine in company, but with a very different etiquette from the Athenian *symposium* and, at least according to admirers of Sparta, without getting drunk.<sup>58</sup>

The Athenian proceeds slowly and carefully. He starts from civic institutions which test and develop courage. This leads Megillus to an enthusiastic description of some of the more notably brutal Spartan institutions. He mentions contests in summer heat, ritual thefts which involve a beating, and the covert policing of the countryside, here praised

<sup>55</sup> It is *symposia* which Megillus initially says that Spartans utterly reject (636e8–637b6), lumping them together with other occasions of drunkenness, such as festivals of Dionysus.

<sup>56</sup> As is pointed out by Murray (1990a).

<sup>57</sup> See Tecuşan (1990) 238–60.

<sup>58</sup> Critias (Plato's relative, the leader of the Thirty Tyrants) praised Spartan drinking customs and criticized the customs of the *symposium* for leading to drunkenness and loss of mental and physical control. See Critias passages 25, 49, 50 in Dillon and Gergel (2003); cf. Murray (2013).

as training in endurance (the victims are not mentioned).<sup>59</sup> The Athenian now insists that courage, if it is not to be 'lame' or one-sided (634a2), must include the ability to resist pleasures as well as pains.<sup>60</sup> This does not strike us as an obvious point about courage, but clearly it did not strike Plato's audience as strange. In the *Laches*<sup>61</sup> Socrates, with no opposition from the other speakers, demands to know what courage is in facing illness and poverty, and in public life, and not just in resisting pain or fear, but in opposing pleasures and indulgence. Further, the courage of the auxiliary rulers in the *Republic* is described as a fast dye not washed out even by pleasure, 'stronger than any solvent', as well as pain, fear, and desire.<sup>62</sup> The idea of courage as endurance against pleasures as well as pains is not here alien to the audience. However, the interlocutors, raised in societies where courage is focussed on enduring pain, find the idea of laws or customs to test endurance of pleasure initially puzzling, and they see *symposia* as mere self-indulgence, and the loss of self-control produced by drinking wine as merely disgusting.<sup>63</sup> The Athenian's counter to this is that any institution can be run well or badly, so that their response shows that they have never seen, and never envisaged, a drinking party which is well regulated and controlled by someone who is sober and capable of steering the discussion in good directions. Their experience of wine drinking has been too narrow.

This is a forceful point: whether drinking parties are a good thing or a bad depends on how they are organized, and it is now established that they can be well organized. But Cleinias now makes an obvious objection: even so, what *good* are *symposia*? What *benefit* could there be from them, either to individuals or to a city, comparable with the obvious benefit of military capability? The Athenian's reply is that the city benefits from education, *paideia*, more than from mere military capability. 'Education brings victory, while victory can bring lack of education', since mere military victory can make people insolent and forgetful of the values that good education develops. Cleinias now (at last) gets the point: properly conducted *symposia* are being claimed to be an important factor in education—education, that is, for citizenship.<sup>64</sup>

<sup>59</sup> 633b5–c7: the Athenian does not comment on these, but it is reasonable to infer that he thinks them overly brutal. Magnesia has nothing corresponding to the first two, and the 'country wardens' carry out a far more benign version of keeping the countryside under review (762b6–763c2). See n 21.

<sup>60</sup> *Laws* 634a2.

<sup>61</sup> *Laches* 191d–e.

<sup>62</sup> *Republic* 430a–b.

<sup>63</sup> *Laws* 636e–637b.

<sup>64</sup> *Laws* 641a1–d2.

The Athenian now argues that *symposia* can be an important educational tool. Wine drinking gets us to lose control of ourselves, and hence it can tell us a great deal about ourselves, and can be the subject of testing and training, comparable to physical training to endure pain. Properly supervised drinking parties can test whether someone is afraid of the right things, namely the performances of shameful actions and words. Conventional ways of testing courage require facing someone with actually fearful situations, but we need only the 'cheap and fairly harmless' test of a (properly conducted) drinking party for him to reveal his readiness to think and act in certain ways, shameful or not. *Symposia* provide a way of 'knowing the nature and dispositions of people's souls', which is clearly valuable to someone exercising the 'skill of politics'.<sup>65</sup>

The Athenian is persuading Spartans and Cretans that *symposia* of the Athenian kind can be a legitimate and useful part of education and culture in a well-run city whose aim is the virtue and so happiness of its citizens, and which takes virtue to have priority over other goods (as illustrated in the discussion of education in a good state). This is a big modification of their idea of a good civic culture. It is presented here through an enlargement, made acceptable to them, of their conception of what courage is.

There is a puzzle, however. The conclusions are reached at the end the first book, and the second opens with the suggestion that the proper use of wine has a further benefit. As this is developed, however, what we find is the 'chorus of Dionysus'. We are told (664b) that at festivals there should be 'three choruses': the Muses' chorus of children, Apollo's chorus of young men, and a third chorus, that of Dionysus, consisting of older men (between 30 and 60), who need to get drunk in order to overcome their inhibitions about performing in public. Later (670b) these older men turn out to have the best taste and judgement about songs and music. Older people need to be compelled to perform in public in order to give the city a demonstration of the best that they have learnt. The legislator must lay down proper 'sympotic laws' (671c4), for the 'Guardians of the Laws' to discipline those who threaten to go out of control.

<sup>65</sup> This stretch of the discussion goes from 646d5–650b10; the quotations are 649d 7–8 and 650b7.

How does the 'chorus of Dionysus' relate to the introduction of the (properly regulated) *symposium* into educative culture? The answer is very unclear. The Athenian remarks that the chorus of Dionysus are the people that our previous discourse was aimed at,<sup>66</sup> which suggests that this chorus is, in fact, what a properly regulated symposium would amount to.<sup>67</sup> But a chorus does not fit a sympotic setting, and a group consisting of old men makes no sense of the *educative* function of the *symposium* for the young, on which the Athenian put such stress earlier. It is younger men who need the testing of the reformed *symposia* to determine their fitness as citizens. (We might note that nobody under 18 can drink wine anyway in Magnesia, so even a younger drinking party would be made up of men over 18. Possibly this might be to minimize the erotic and pederastic function of the actual *symposium*.<sup>68</sup>)

We have no clear way of relating the 'chorus of Dionysus' to the properly regulated *symposium*, which is described as 'discussion while drinking' (*diatribē en tois oinois*)<sup>69</sup> and the latter disappears from view after the initial discussion.<sup>70</sup> (It is of interest, though, that the Stoics recognized 'sympotic virtue',<sup>71</sup> retaining the symposium setting.

In itself the presence of incomplete integration in the *Laws* is not too disconcerting. The work is unfinished, and there are other problems that would presumably have been worked out in a final version: for example, the apparently contradictory indications about the role of women, and the place in the city of the Nocturnal Council, an inner circle of experienced officials. But even though the supposedly crucial cultural function of properly regulated *symposia* produces a problem it has played a useful role, as an illustration of the kind of improvement from within that Plato

<sup>66</sup> *Laws* 664d8–9.

<sup>67</sup> Meyer (2015) argues for this in her commentary.

<sup>68</sup> See Bremmer (1990), pp. 135–48. Young boys served as wine pourers, and as inhibitions loosened through drinking often became objects of erotic attraction. The Athenian has already criticized Cretan legitimization of pederasty through the story of Ganymede, wine pourer to Zeus, at 636c7–d.

<sup>69</sup> *Laws* 645c3–4.

<sup>70</sup> At 812 b9–c7 we find that when children are learning the lyre, the 60-year-old singers of Dionysus will be especially expert at perceiving which rhythms and harmonies will 'charm' (*epaidei*) the souls of the young. This is a chorus rather than a sympotic setting, suggesting that the 'chorus of Dionysus' is not a metaphor in Book 2.

<sup>71</sup> Stobaeus II 66 (section 5b9), where it is treated alongside the erotic virtue of knowing how to turn promising young men towards virtue. This retains the traditional context of the *symposium*.

thinks can be made if we start from a going culture of the Cretan or Spartan kind and enlarge our views of the values it encourages. The two conservative old men have overcome their prejudices and accepted a practice that they have hitherto simply rejected. This is quite significant, given how resistant to change are the cultures that they represent. The discussion of the *symposium* has opened them up to the idea that their culture could be improved by taking over an institution from another culture. This is shown to be not only consistent with the educative aims of their own, but capable of developing these in an enriched way, based on an enlarged view of those aims. The old men, in other words, have been softened up to the idea that a city with a culture like theirs could improve its conception of courage (which they think of as their own speciality) and be open to something from the quite different Athenian culture, which they have hitherto thought of as being simply inferior to their own.

Although the point cannot be made at this stage of the dialogue, where the project is still one of discussing legislation rather than actually formulating laws for Magnesia, this methodology turns out to be a highly appropriate one for thinking about the founding of a colony, such as Magnesia will be, which starts with citizens who have grown up in other cities. Later Cleinias will say that the settlers will likely be from Crete as a whole; of any non-Cretans it is people from the Peloponnese who will be the most welcome. Thus the settlers will predominantly share a common culture akin to that of Crete or Sparta. The Athenian comments that where there is this initial common culture there is likely to be unity and friendliness, but resistance to laws and forms of constitution other than the one they are familiar with.<sup>72</sup> By the time he makes this point we will already have seen the two old men, products of this culture, adopt a less rigid attitude than they started with to new forms of institution, so Magnesia begins with the assumption of psychological possibility.<sup>73</sup>

The Athenian is, in the introductory two books, making Magnesia palatable to conservative Spartans and Cretans by representing it to them as an enlargement from within of what they already accept. This

<sup>72</sup> *Laws* 707e1–708d7. Where the settlers are from a variety of Greek cultures there is greater willingness to live under unfamiliar laws, but it is harder to get the settlers to unify as members of the new city.

<sup>73</sup> I owe this point to Jeremy Reid.

enlargement is, as the Athenian openly admits, not obvious to 'the rest of us'; it is clear to someone 'experienced in laws by skill or indeed by some customs'.<sup>74</sup> He is presenting himself as the desired expert. But does he really believe that Cretan laws as they are actually further virtue as a whole—the claim he makes to get Megillus and Cleinias on board for his own project? He certainly seems to be initially misleading, or manipulating, his unintellectual companions in the interest of getting them to see what a good city would actually be like.

Plato, like many other ancient philosophers, is not troubled by falsehood, or manipulation, for the benefit of the person deceived. The Athenian is, in fact, someone who has the expertise which comes from being acquainted with different systems of law and different cultures, reflecting about questions concerning the nature, scope, and power of law and having the philosophical mastery of argument needed to develop a metaphysical background to law. The last is seen in Book 10, where it is made clear that the Cretan and Spartan do not fully follow the argument. (It is also clear that they do not need to.) For nearly the whole work the Athenian leads the other two onward by making suggestions drawn from his own broad and deep knowledge of law and, where these suggestions are new and surprising to them, defending them at the level of ordinary justification rather than abstract philosophical argument. (It is just this feature of the work which has made it disappointing to some philosophers.) It is in tune with this role of the Athenian in the work as a whole that he should lead his partners to enlarge their conception of courage, and hence of what is appropriate to test it, by making a claim which, while strictly not true, leads them to expand their understanding and to acquire a true conception of a good city.

This should not lead us hastily to conclude that the Athenian is just Plato's mouthpiece. All the above features fit a stereotype of Athenians—they are paradigmatically the Greeks who travel around in an intellectually curious way, reflect on their experiences, and go in for philosophical discussion. Plato's Athenian transcends the stereotype in having reflected on his own culture and institutions as well as on those of others, and so is the only one of the three who is in a position to draw lessons from cities of different types, not just his own.

<sup>74</sup> *Laws* 632d5–6: *tōi peri nomōn empeirōi technēi eite kai tisin ethesin.*

Plato is now building his good society from below, taking an existing culture as a starting point and improving it by modifying it from inside, in ways that can be made acceptable to existing members of that culture. The existing kind of education for Cretans and Spartans leaves them incompetent to understand philosophical argument; they have never themselves worried about the kind of question to which the *Republic* forms an answer, so the *Republic* will leave them cold. But they *are* capable, even as elderly products of innovation-averse societies, of appreciating ideas the Athenian introduces, especially when these are initially presented to them as unfolding the implicit content of what they already accept. Cleinias and Megillus are represented as balking at first, but as being kept on board. When we get to the seventh book, Cleinias is noting that very many of the proposals in the law code run quite contrary to established institutions, but by that point he is unworried.<sup>75</sup>

## Changing from Within: Institutions, Freedom, and Autocracy

In Book 3 the Athenian gives a lengthy account of the prehistory and past history of three Greek states, and later a partial account of the history of Athens and Sparta. On first reading it is not clear what part these play in the discussion of which the Athenian says that everything in it has tended to be an account of the best state and the best individual life.<sup>76</sup> They can reasonably be seen, however, as part of the Athenian's project of expanding the view that his partners have of the good society. Megillus, the Spartan, for example, clearly thinks that Sparta is the best example of the good society, but there is no indication that he has ever thought much about how and why this would be the case. The Athenian presents him with a history of Sparta which shows how Sparta came to have the institutions it did, in a way which enabled her to function well; so Megillus comes to understand that Sparta's success depended on having the kind of institutions rendering her more stable than other cities. Plato and his audience are aware that Sparta had lost military pre-eminence in Greece (Aristotle is scornful about this, commenting that the Spartans collapsed when faithfully following their laws, so that their

<sup>75</sup> *Laws* 805b3–4.

<sup>76</sup> *Laws* 702 a7–b3.



failure cannot be attributed to their diverging from their traditions).<sup>77</sup> Sparta in the *Laws* is merely a city which got *something* important right, on which better can be built.

The ancient history of Sparta, Messene, and Argos here is highly tendentious, especially that of Sparta and Messene, but it serves to support a crucial point: many great states in the past came to ruin because their constitutions<sup>78</sup> were 'unmixed'. They were ruled by a single unchallenged source of power, and thus were open to abuse of that power by rulers who broke oaths and promises when they could, and so got hold of absolute power, which they used badly. The only state in the Athenian's history that did not descend into tyranny was Sparta, because of her 'mixed' constitution. Power was divided between two kingly families, and further divided between the kings and the council of elders and, later, the officials called ephors who represented the people.<sup>79</sup> This passage is the first appearance of what can be called the theory of the mixed constitution. It is inevitably compared with the later versions of such a theory in Polybius and Cicero.<sup>80</sup> They are all some version of the idea that to function well a state needs to have more than one source of power, and also institutions strong enough to prevent power from ending up with a single source. Different sources of power thus need to serve as checks on the other parts, so that power is balanced between discrete parts of the state rather than concentrated in one part alone.

Plato, however, is far from the idea developed in Polybius and Cicero, and familiar today, that checks and balances between different parts of a state are part of a normal, acceptable way of going on, with different groups as a matter of course pursuing their own interests, and checks between them keeping a manageable balance of power within the state. For Plato this would be a state trying to pursue many different aims at

<sup>77</sup> *Politics* II, 9, 1333b 5–35. Xenophon disagrees about this, accusing contemporary Spartans of disobeying the Lycurgan laws in the final chapter of his work on the Spartan *politeia*.

<sup>78</sup> Plato does not give the word *politeia* a technical sense, as does Aristotle; it often refers to a body of laws (see Meyer (2015) on 625a6–7).

<sup>79</sup> *Laws* 691c1–693b5. Plato says that the power of the ephors was 'near the power of the lot' (692a5–6). Ephors represented the people as a whole and thus the democratic element in the Spartan constitution, symbolized in Athens by wide use of the lottery; but ephors were elected (a non-democratic procedure), held enormous power non-accountably, and were notably open to bribery (Aristotle, *Politics* II, 9), hardly democratic aspects of the office.

<sup>80</sup> Polybius, *Histories* Book 6; Cicero, *De Re Publica* Book 1.

the same time, something he takes to show that it is not functioning properly. A state, we find repeatedly in the *Laws*, should have a *single* overall aim, and it should be the aim of the state as a whole, not of one of the groups in it, and especially not a collection of different aims of many groups. For Plato distribution of power among different sources is emphatically not a way of having the state form a framework for different groups competing to further their own agendas, with the state balancing the forces they possess. Rather, for him distribution of power among different groups is to *prevent* them from pursuing their own agendas against the interests of other groups, enabling them to *cooperate* in pursuing the state's single overall aim. Plato never accepts that a city could make its citizens happy if its political life is a constant series of conflicts between different groups always trying to frustrate one another. It is significant that the Athenian picks Sparta as his example of the successful mixed constitution, with power dispersed among three groups: Sparta has already been praised as a state that has a *single* overall aim, and succeeds in educating its citizens to value this aim as one they are *all* devoted to achieving. In its mixed constitution it has a stable way of getting the kings, council, and ephors to *cooperate* in important matters, thus rendering the state stable.

Sparta's successfully 'mixed' constitution is, then, an example to show that states should have institutions that distribute political power in a stable way if they are to successfully sustain a unified culture and way of life. Since we know even by this point in the dialogue that a good city, in which the citizens live virtuously and so happily, should have the single overall aim of virtue, as a priority in the lives of the citizens, we expect when we get to the law code of Magnesia that political institutions will have this feature: they will not allow any one segment of the city to have permanent power over the others. This is what we find: there is an Assembly, a Council, various magistrates, military and religious offices, and the courts. This is the normal range of institutions for most Greek cities. Magnesia also has a committee of Guardians of the Laws,<sup>81</sup> and a

<sup>81</sup> Their duties are not precisely specified (770a5–771a4); see Bobonich (2002) 380–1. Some of them will have understanding, *phronēsis*, while others will merely have true belief, *alethēs doxa* (632c4–5), so their function does not overlap with that of the further educated members of the Nocturnal Council.

committee of Auditors of the other offices.<sup>82</sup> As the details of their constitution and methods of selection are spelled out we can see that we have a sustained attempt to set up institutions which work together and are not put in a position where any one could usurp the functions of the others. We find in Books 10 and 12 that there is another committee, often given the slightly sinister title of the Nocturnal Council, but this is not an official part of the constitution.<sup>83</sup> Plato, ignoring Sparta's own clumsy and archaic institutions, produces a mixed constitution by turning to Athens. In large part he modifies Athenian institutions in the direction of what he sees as moderation, making them less democratic in the sense of being less directly accountable to the decisions of the majority of the people.<sup>84</sup>

A second important point is introduced when the Athenian says that 'we should bear in mind that a city should be free and wise and a friend to itself, and the lawgiver should proceed with a view to that'.<sup>85</sup> Freedom has been introduced shortly before as the opposite of being ruled by someone else.<sup>86</sup> The Athenian now develops the contrast between institutions which promote freedom and those which promote autocracy, and gives a different historical illustration: the history of Athens and of Persia. Colourfully, there are two 'mothers' of constitutions, the 'monarchical', for which I shall use the term 'autocratic', and democratic.

The Athenian recounts how the Persian state developed well under good kings, like Cyrus and Darius,<sup>87</sup> who allowed their subjects freedom to speak their minds and make constructive suggestions, but became autocratic under bad kings, destroying the friendship and free communication that had existed among Persians. The Athenians of the period of the first Persian War, when they won the battle of Marathon, were, the

<sup>82</sup> Stalley (1983) 186–91 has a convenient list of Magnesian offices and their modes of selection.

<sup>83</sup> The committee owes its name merely to its meeting before dawn, in accordance with the Athenian's dislike of time wasted in sleep (*Laws* 808a7–c6)—a point surely idiosyncratic to Plato rather than part of the Athenian stereotype (unless it is meant to emphasize what were seen as Athenian workaholic and busybody habits, which in Magnesia are to be put to service for the public good).

<sup>84</sup> See Morrow (1993) chapters V and VI. The importance of moderation will emerge later.

<sup>85</sup> *Laws* 693b3–5. Cf. the repetition of the point at 701d7–9.

<sup>86</sup> *Laws* 687a6–b2.

<sup>87</sup> The romantic view of Cyrus might suggest engagement with Xenophon's *Cyropaedia* (see Schofield (2013) for one suggestion), or simply a widespread romantic view.

Athenian claims, free in a way expressed in their respect for conservative values, particularly as regards established forms of music and dance, and in their acceptance of the discipline of their laws. After the Persian wars, he continues, they became enamoured of the freedom to innovate and to express their own opinions, until everyone thought his judgement about cultural matters was as good as anyone else's, and thus they started to resent any kind of discipline, whether in culture or imposed by the laws. Persia represents what happens when autocracy is unchecked, and Athens, what happens when freedom becomes undisciplined.<sup>88</sup> There is an obvious moral here: neither autocracy nor freedom are themselves the sole aim at which a lawgiver should aim, since each needs to be in some way checked or tempered by the other. This is what Plato takes to be achieved by 'mixing' freedom and autocracy.

What is 'mixed' are not autocratic and democratic institutions as such (Magnaesia has no monarchy), but the principles of autocracy and democracy, two principles which should be expressed in the institutions of a good state. Good laws and institutions will bring it about that the citizens are neither too thoroughly disciplined, like Spartans, nor have citizens who manage their lives without recognizing authority, as Plato regards contemporary Athenians. Instead, it should recognize the value *both* of discipline *and* of freedom. In practice we find that many Athenian laws and institutions are introduced and modified in the direction of making them less directly democratic; so election supplants many uses of the lottery to make appointments, and Plato adds an appeals system to the Athenian type of court.<sup>89</sup> This makes many of Magnesia's laws and institutions appear oligarchic, and indeed Aristotle makes the surprising mistake of taking Magnesia to be a mixture of oligarchy and democracy, and thus missing the distinction between the principles

<sup>88</sup> Plato associates this decline with the expansion of democracy brought about by Athens' expansion of naval power, which opened political power to citizens who manned the ships, as opposed to the land army. He goes so far as to say that, while the land battles of the Persian Wars made the Greeks better, the sea battles 'made them worse' (706a4–707c7), since fighting on land requires the courage not to give ground, whereas fighting from ships does not.

<sup>89</sup> Lottery is used only for religious offices (759b1–c6) and to appoint from a group pre-selected by election (756e2–8). The Athenian regards the principle of the lottery, with its assumption that any citizen is competent to perform a political task, as contrary to justice, but necessary to maintain the perceived equality between citizens (757d1–758a2).

behind Magnesia's legislation and the ways in which these are translated into legislation.<sup>90</sup>

This 'mixture' of the principles is to be the basis of the citizens being 'friends' to one another, a desideratum in the *Republic* too.<sup>91</sup> In Book 6 the Athenian claims that the selection of officials in Magnesia hits the mean (*meson*) between autocracy and democracy, 'for slaves and masters can never be friends'.<sup>92</sup> The political institutions of Magnesia are designed to avoid the permanent subordination of some people to others, as this would destroy the kind of friendship between citizens which marks a good city. The citizens will be free, but not free just to live any way they want; their lives will be disciplined and they will be 'persuaded or forced' to live in certain ways only. They will, we will learn, be 'slaves to the laws', but they will not be subordinated, as slaves are, to any other citizens; hence their relationships can develop into friendship which is impossible when the degree of inequality between people is too great, a point prominent in Aristotle's discussion of friendship in his ethical works.

The city's unity of aim—the priority of virtue—will rest on the principles that power must be dispersed among different elements in the city, and that the city's institutions will allow citizens freedom within a system of discipline over their lives. This prepares the way (to be described in Chapter 4) that the citizens develop virtues through an attitude to their laws which combines strict discipline with the kind of understanding that free people are entitled to.

As the law code of Magnesia is developed we find that Plato continues to be sensitive to what a free citizen can expect to accept, and not to accept, by way of being ruled; he no longer puts citizens in the position of the producer class in the *Republic*, ruled by the 'guardian' rulers and with no say in the matter.<sup>93</sup> His own answer to the nature and role of freedom for a citizen turns out to be original and unlike any he has experienced.

<sup>90</sup> *Politics* II, 6, 1266a1–22. In this section I have benefitted from conversations with Jeremy Reid.

<sup>91</sup> *Republic* 590c8–d7, especially d7.

<sup>92</sup> *Laws* 756e9–757a1. The 'mean' or what is 'measured' rather than extreme in either direction in which extreme is possible is stressed in the discussion of the principles revealed in the development of Persia and of Athens. There are similar thoughts at *Statesman* 283c–285c and *Philebus* 64d–e. Friendship, *philia*, in the good forms of state is stressed at *Laws* 697c5–698c3.

<sup>93</sup> He does not hesitate to leave slaves in this position, and the legal status of resident aliens is lower than that of citizens.

## Second Best?

The long introductory conversation displays a new methodology for representing a good city and discussing a good life. When the three old men start to discuss the new law code for Magnesia, from the end of Book 3 onwards, we have already been prepared for many of the features that it will display. The city is to be founded as one of a Cretan or Spartan type, with a uniform required system of public education designed to produce citizens of a definite character. But the founders will not aim to reproduce Sparta; the Spartan and Cretan have had their perspectives expanded by being got to enlarge their view of their own dominant virtue, courage, and thus of the aim of the city's education, and they have also been shown that to produce this institutions are needed which will protect this aim, and protect it in a more sophisticated way than actual Spartan institutions protect their aim of warrior courage. The Athenian's unintellectual companions have followed along with this. This is the kind of project that people like them can come to understand and accept. Of course Plato is writing all the parts, but his use of the dialogue form here indicates that he does think that people like Cleinias and Megillus can be got to accept the enlargement of their perspectives which will produce the laws and customs of the city of Magnesia. This is a new methodology; it is quite different from the way the *Republic* represents the best life and the best city in the context of the overall argument. It is a fresh and original way to approach the problems discussed in the *Republic*. Is it, however, not only different but a fall-back?

There are some well-known passages which have been taken to show that Plato regards the society of the *Laws* as a mere second best, cut back and adjusted to the limitations of what he now regards as less tractable human nature. These have been stressed in accounts of Plato's political thought which see the *Laws* as a depressed ending to progressively more disillusioned political thinking. But a more complex interpretation of Plato's thinking in the *Laws* is more reasonable.

One passage (which we have already seen) has been used to indicate that the rule of law is now for Plato a second-best substitution for the rule of expertise, a kind of rule which he previously accepted and which he still wishes for. It is the passage where Plato claims that humans need laws to keep themselves from barbarity, since no individual can both properly discern the common good and stay uncorrupted:

If there ever was a person adequate by nature, brought about by divine dispensation, who was able to take over these things, he would need no laws to rule over

him, for no law or regulation is superior to knowledge, nor is it right for reason to be subordinate to, or a slave to, anything; what is right is for it to be ruler of everything, if indeed it is by nature true and free. But as things are it is nowhere to be found at all, except to a small extent, so the second is to be chosen, regulation and law, which see and look to what is for the most part, but are unable to see everything.<sup>94</sup>

Here we find the claim that expertise is always preferable to following laws or rules; this is a claim that Plato never gives up on. In the *Statesman* the idea is developed in the context of political rule: the only true state, claims the Eleatic Visitor who is the main speaker, is one ruled by expertise, since only the expert will be able to get practical decisions right in any context, whereas laws are necessarily stated in general terms and so will always be coarse instruments for any kind of rule. The Visitor even likens a law to a self-willed and ignorant person who cannot take in what you are saying and so can never improve what he is doing. In the absence of the ideal expert statesman we do best by obeying the laws of our societies, since one which is law-abiding is always better than the same kind of society where laws are ignored, but this is always a second best to rule by expertise.<sup>95</sup> (This kind of claim about the advantages of practical expertise in relation to the rule of law appeals to Aristotle, too, leading him to make a much discussed claim about the ideal expert ruler which is not dissimilar to this passage of the *Laws*.<sup>96</sup>)

But, as we have seen, this distinction between ideal expertise and reliance on laws cannot be for Plato a distinction between the *Republic* and the *Laws*, since laws are as fundamental to the former as to the latter. The ideal expert ruler here, ruling without deference to laws, can hardly be a *Republic* philosopher-ruler, who has been brought up to be law-abiding and to enforce laws. The distinction here is simply a general one that Plato always makes, a distinction between expert practical judgement and following laws and rules, and both *Republic* and *Laws* fall on the law-following side. The passage shows no change in Plato's thought

<sup>94</sup> *Laws* 874e7–875d6, quoted in full on p. 30. Bury's Loeb overtranslation gets the main point right: 'ordinance and law, which see and discern the general principle, but are unable to see every instance in detail'.

<sup>95</sup> *Statesman* 292c–303c.

<sup>96</sup> *Politics* Book III, chapter 17, especially 1288a15–29.

about human nature: ideally we would be ruled by expertise, but since this is not an option we need to begin from the point that any kind of society needs to have and to enforce laws. This is just as true of Kallipolis as it is of Magnesia; what is different in the latter is the role of the laws in the education of the citizens and the formation of their citizen virtues.

This passage expresses Plato's standard position that practical expertise is always to be preferred to reliance on laws and rules, since the practical expert will be aware of all the salient factors in any practical decision and will also be able to give them their proper relative importance, whereas laws are essentially general and their application always liable to over or undervalue some aspects of particular situations. Any reliance on laws is thus a second best to the optimal ideal situation. In this respect, both Kallipolis and Magnesia represent ideal situations which are less than optimal. Only if we ignore the large presence of law in Kallipolis can we see this passage as representing a failure of nerve on Plato's part about the possibilities of human nature between Kallipolis and Magnesia.

At *Laws* 708e–712a the Athenian is developing his views on the foundation of Magnesia, and turns to the population: Magnesia is to be advertised as a settlement for anyone (anyone suitable, it turns out) from any Greek city. This is a familiar model. The Athenian comments on the various difficulties involved, and turns to discuss the problems of creating a new city, commenting that in view of the persistence of cities, given all the natural and man-made catastrophes marking human history, we have to admit a role for god as well as chance factors. God here is not the Homeric or city gods, but, in a way to be explained later, enters the picture as reason employed directly, taking the form here of the expertise a lawgiver needs to create a city. What does such a lawgiver need to put his ideas into practice?

Here the Athenian says, strikingly, that the most efficient way to produce the changes in an existing society would require a wise lawgiver acting through a young and energetic tyrant, who can force this kind of change through. But for the result to be ideally virtuous, rather than merely an exercise of power, the tyrant has to be virtuous, utterly devoted to the result, and himself participating in it. The tyrant need not be just one person; the important point is that the radical changes needed to produce a good society need a combination of power and virtue to bring them about in our world as it is. The Athenian takes it as obvious that no



such combination is presently to be found, giving as an analogue only the Homeric combination of force in the warrior and wisdom in Nestor.<sup>97</sup> Given Plato's generally dismissive attitude to Homer, it is likely that this reference implies that the wise ruler advising someone with absolute power is an imaginary combination, what we would call fictional.<sup>98</sup> The virtuous tyrant, the precondition for human expertise to be able to work on a human society to improve it, is not to be found in the world as it is, nor to be expected in the world as it is. (It may, however, have given the writer of the seventh 'Letter' the idea of Plato as the would-be wise adviser to the tyrant Dionysius II of Syracuse, trying to get him to establish good laws.<sup>99</sup>) This has nothing to do with the role of philosopher-rulers in Kallipolis—for one thing, the combination of virtuous tyrant and wise adviser is simply a device to set up the city with laws, not to continue ruling it.<sup>100</sup> Rather, the point is a simpler one. Any expert needs to have the appropriate opportunities for his expertise to be put to good use to produce a worthwhile product. If such an opportunity is offered to a wise lawgiver, then god (in the form of reason) has done its best for the city; at that point we need factors like good luck—for example the improbable presence of the combination of wisdom and power in the virtuous tyrant.<sup>101</sup>

As we can see, Plato has not fully thought through the idea of bringing Kallipolis about in the actual world. In the *Laws* the thought does occur to him how a city like Magnesia could be brought about, because Magnesia, though an ideal, is an ideal constructed from thoughts about the improvement of actual societies and, rather than urging his

<sup>97</sup> *Laws* 711e1–4.

<sup>98</sup> The Athenian frequently quotes Homer. When Cleinias reveals ignorance of Homer this presumably shows that Cretans are more parochial and less cultured than Spartans, who do know and value Homer (680b1–d6). Yet the Athenian casts Homer along with Tyrtaeus as a poet giving bad advice for how to live our lives (858e1–4), a passage indicating what is to be the Magnesian attitude. Does this indicate that Cleinias is fortunate in his ignorance, rather than deprived of anything valuable? The Athenian does allow that poets may be inspired in their preservation of important information preceding written history (682a1–5), but this is not much of a concession.

<sup>99</sup> I do not here discuss the question of the authenticity of the 'Letter', though I think that reasons to consider it inauthentic are set out clearly and decisively in Irwin (2009); see also Burnyeat and Frede (2015).

<sup>100</sup> Although I disagree with much in it, I have learned a great deal from Schofield (1999b) on this issue.

<sup>101</sup> *Laws* 708e1–712b2.

interlocutors to think abstractly about the matter, the Athenian discusses with them the nature of actual societies, and draws morals from their histories. The conditions needed to bring Magnesia about (a virtuous tyrant with a wise lawgiver) are not taken to belong to our actual experience; but we can tell a story about what is recognizably our world which ends with the creation of a law code for Magnesia. This is what is indicated at the end of Book 3 when Cleinias says that the conversation so far has been a stroke of luck, since he is on the Knossian committee to establish the new settlement of Magnesia. He proposes selecting from their discussion and 'setting up a city in discussion, as though founding it from the start'. This will have two advantages: it will enable them to examine the idea of the good state that they are investigating, and Cleinias 'might perhaps' make use of the system for the future city of Magnesia.<sup>102</sup> The city of the *Laws* is an ideal sketch; as the dialogue makes clear, it is not a blueprint. At one point it is said to be the product of 'elderly boys' producing a model of laws for a proposed city in their discussion.<sup>103</sup> And at one point Plato makes it clear that the order in which matters are discussed in the dialogue would not be the same as the order of practical steps needed to establish an actual city. When discussing buildings, the Athenian remarks that in practical terms (*ergōi*) buildings come before marriage, but in their discussion (*logos*) of the ideal city marriage arrangements have to be discussed before the matter of building types.<sup>104</sup> Magnesia is an ideal sketch, with an explicit gap between it and any practical attempt to realize a city. Nonetheless, as we shall see, it shows us a feasible sketch for a city in the way that Kallipolis does not, in the sense that we can envisage a passage from our society to Magnesia. This is the project of the *Laws*.

There are two passages in the *Laws* where it appears that an aspect of the ideal life of Kallipolis is mentioned with apparent regret. In Book 5 the Athenian turns to the issue of dividing up Magnesia's land, a preliminary to the development of property and family life. It will emerge that in Magnesia estates are inalienable and private property is not at the disposal of the owner to do as he will with it; in particular he

<sup>102</sup> *Laws* 702d1–5. Cf. also 736b5–7, 737d.

<sup>103</sup> *Laws* 712b2–3. The phrase has worried some editors, who have wished to avoid it by reading *paida* with some manuscripts instead of *paides*, but this is unconvincing.

<sup>104</sup> *Laws* 778b1–c2.

will not be allowed to leave it in his will as he likes, without many constraints. Family life is different also, since both men and women are to attend common meals (*sussitia*). Still, Magnesia is to be a society of individual households, not a community where, as in Kallipolis, there is no private property. The Athenian takes the occasion to say:

The city and state are first, and those laws are best, where the old saying that friends really have all things in common holds in the whole city as much as it can. As to this—whether it exists now anywhere or ever will exist—what is called private has all been everywhere removed from life by every means, and it has been contrived as far as possible that even what is naturally private should in a way become common; for example, eyes and ears and hands will seem to see, hear and act in common, and people will be pleased and pained by the same things and so praise and blame as one. Whatever laws render a city as unified as possible—nobody will establish a more correct or better account than these in respect of exceeding in virtue. In a city like this, whether it is gods or children of gods that inhabit it, their life is a pleasant one in this way of life. So we shouldn't look elsewhere for a model of a state, but stick to this and seek for the one which is as most like this as possible. The one we have now set our hands to would, if it came about, be in a way nearest to immortality, and be unified in a secondary way; and we'll go through the third one later, god willing.<sup>105</sup>

Here the Athenian represents himself as compromising in the aim of achieving virtue by working with, rather than trying to remove, one aspect of his material, namely human tendencies to selfishness and individualism. Plato never budes from his conviction that it is selfishness which is the main problem in human social organization; he states this explicitly in the Athenian's address to the citizens.<sup>106</sup> He is now accepting a measure of private ownership and family relationships in the citizen life to be lived virtuously, and so happily. He circumscribes this in many ways, so that the result is far short of what we would consider ownership; he is hoping to limit acquisitive tendencies by the development of citizen virtues, rather than aspiring to educate those tendencies away.

In what way is the present account 'second' to the one where there is no property which is private in any sense, where people simply will not conceive of themselves as individuals with distinct purposes and wants, so that private property will simply not exist? It is less idealistic about

<sup>105</sup> *Laws* 739b8–e5. There are two textual issues. At d7 I omit *pleious henos*, with England, and at e4 I read *hē mia deuterōs*, rather than accepting the emendation *timia* for *mia*.

<sup>106</sup> *Laws* 731d6–732b5.

human nature and its tendencies to individualism, and this has sometimes been taken to imply that Plato now has a 'pessimistic' view of human nature. However, it would be just as reasonable to call it a more realistic view, one which recognizes that the abolition of private life is naïve in a representation of a good city. In the *Laws* the *Republic* ideal is not repudiated as an ideal, but it is not part of the project of sketching a good city. The Athenian is represented as being disappointed at not being able to incorporate an ideal which he recognizes as unrealistic, given the commitment of people to private lives and private property. Instead he accepts these as givens and works on modifying them away from the individualist expectations that most people have of them. This is a more satisfactory approach than imposing on people laws that would require force, rather than force and persuasion. That these passages are short interruptions in the course of the lengthy project of legislating for Magnesia shows that this disappointment gets compensation in the ability to produce an ideal of a good city and a good life without assuming that we can start with the characters that could only come to exist in the very city we are projecting.

The second passage comes in the second discussion of education, where the Athenian pauses to point out that Magnesian citizens will be living a life freed from the need to practise professional skills or heavy farm work, but that this does not mean that they will have nothing to do and live the life of sloth. Before going on to say that they will actually live the life of civic virtue, which is a full and busy one, he comments parenthetically:

If we were to seek to bring this<sup>107</sup> about now with precision, perhaps<sup>108</sup> it couldn't come about, as long as women and children and houses are private, and all such things are established as private to each person. But if the second after that, which we are now discussing, were to come about, we would be very satisfied.<sup>109</sup>

<sup>107</sup> The reference of 'this' is difficult, since it clearly cannot refer to what immediately precedes. It must refer to the proper use of a leisured life, discussed further back. See Schöpsdau's and England's discussions of this problematic passage.

<sup>108</sup> The Greek *isōs* can sometimes have the force of 'certainly', rather than 'perhaps'; it is hard to say which is more appropriate here.

<sup>109</sup> *Laws* 807b3–c1. The Greek literally says that 'our situation would be very moderate (or appropriate)'. This probably means that we should be satisfied, rather than we should be aware that we could have done even better.

Here Plato again makes the point that Magnesia is being established in a way which makes concessions to desires for private life and private property, but here he sounds less regretful about this need for concession (after all, by this point in the dialogue it is clear that nothing is private in Magnesia in the sense normal in Greek cities). Both of these passages show that Plato is aware that Magnesia makes more concession than Kallipolis did to what Plato sees as the root of most evils in human life, *philautia* or love of self, something harshly criticized in the address to the new settlers.<sup>110</sup> The remarks on these concessions come at the points of the discussion where they are most relevant: when Magnesia is settled on a basis of private (semi)-ownership of plots of land, and when the life of virtuous citizens is to be described, and will be one of people living in family units. But these remarks do not show that Plato is disillusioned about human nature in general. After all, they are comments in a new and original attempt to sketch a society where citizens live happily because they live virtuously. They point up a difference between Magnesia and Kallipolis, but this should not make us forget that there is a sense in which Magnesia and Kallipolis are both societies where the citizens live happily, because virtuously. They are different attempts to sketch what such a society would have to be like.

The founding of Magnesia is not a withdrawal (pessimistic or not) from the aspiration to sketch an ideal society where virtuous citizens would live happily; it's a fresh approach to doing exactly that. It does not start from answering a problem that only philosophers would begin from. It does not suppose that the citizens can be moulded 'as though they were made of wax',<sup>111</sup> but it does not retreat from the aim, seen earlier in Kallipolis, of sketching a society as near to ideal as possible, rejecting only what is impossible given human nature. Plato now takes a given culture as the basis and improves it by introducing elements from another, doing this in ways that citizens of those cultures can recognize as enlargements of the central values of their own. In beginning from Cretan and Spartan culture Plato shows that for him it is overwhelmingly important to begin with a community-focussed society where culture and institutions aim to produce citizens with a certain kind of character, one moreover obedient to that culture and set of institutions. In this

<sup>110</sup> Laws 731d6–732b4.

<sup>111</sup> Laws 745a–b.

respect Magnesia is as far as Kallipolis is from any modern kind of liberal view which regards it as important to foster individual independence of mind and ethical thinking. But Plato even at his most authoritarian never lets go of the idea that the citizen, to live happily, must have the *virtues*, not mere habits of conforming to laws and going along with the culture. The aims of the Cretan and Spartan model must therefore be considerably enlarged to produce *virtuous* citizens, not just conservative law-abiding types. This enlargement takes place through introducing laws of an Athenian type, which give Magnesia a sophisticated system of governance in which all citizens will be actively employed in taking part in what Plato, anticipating Aristotle, calls 'ruling and being ruled'.<sup>112</sup> Chapter 4 will turn to the issue of how this is to be done. Several themes which are introduced and touched on in the introductory three books are developed extensively in the rest of the work, particularly in the law code for Magnesia which is the topic of conversation from Book 4 onwards.

## Conclusion

I have stressed heavily the way that the ideal city of the *Laws* is produced by 'changing from within', by learning from experience and history and building on that, rather than from constructing the answer to a philosophical problem as in the *Republic*. (I have, however, not used terms like 'empirical' and 'empiricism', since these are theoretical terms, and their use might be misleading.) The conversations between the Athenian and his companions are not 'philosophical' in the sense of containing philosophical argument, and this is for a reason: if the ideal state should now be developed by enlarging from within, it can be achieved only by convincing people within the cultures being enlarged. Cretans and Spartans, whose cultures form the starting point, are notoriously unintellectual and unphilosophical. The methodology of having Magnesia's laws emerge from the Athenian's making suggestions to increasingly compliant partners is appropriate to Plato's aim of having Magnesia set up as

<sup>112</sup> *Laws* 643d7–e6. In the first book the Athenian says that education (*paideia*) is essentially education to become a good citizen, 'ruling and being ruled' with justice. At this point this is a general claim, not one about Magnesia in particular. At 942c7–8 the phrase recurs, but unfortunately in a context where it is said to be good preparation for learning total deference to orders in war or military exercises.

the result of combining two kinds of society to get the best of both and the worst of neither. This aim would not be achieved by having the Athenian discuss with them philosophical issues that are unfamiliar to them. (And it would be disastrous to have Socrates in a conversation with Cleinias or Megillus, who would have no clue what he was doing.)<sup>113</sup>

Plato's own philosophical activity in the *Laws* is not to be found in the details of the ways, often free of argument, in which the Athenian convinces his partners to build up a law code for Magnesia. It is to be found rather in the bold idea of producing a sketch of the ideal state by changing existing societies from within, and by doing this in the specific way of combining aspects of a Spartan kind of society with an Athenian kind of society. In his second attempt at sketching the ideal state where citizens can live happy lives, he develops the idea of a city's having a single end embedded in its culture and way of life; but to avoid the dangers of rigidity it will have institutions which are quite like those of ordinary Greek states, except that they are so organized as to prevent any one person or group from obtaining permanent domination. The institutions and laws will impose discipline in people's lives—how else will everyone's lives be directed at the goal of virtue?—but in a way which allows for the citizens to have the kind of freedom which citizens feel entitled to. It is remarkable that Plato recognizes the value of freedom here, and tries to integrate it into the way Magnesia is to be a state in which people are to be educated to be virtuous, even though freedom itself is underdiscussed.

These ideas provide the structure which underlies the whole book, and makes it an impressive unity rather than meandering and shapeless, as it can appear at first glance. It is true that the overall structure of the *Laws* is less obvious than the *Republic's*; but it is right to see it as doing what the *Republic* does, and as having a similar philosophical overall plan, even though the *Laws* does not start from a philosophical problem. As an example of the development of philosophically interesting political ideas the *Laws* can be seen to be as 'philosophical' as other dialogues with little dialectical exchange, particularly the *Timaeus*.

<sup>113</sup> It is not such a mystery, then, why Socrates is completely absent from the *Laws*. In dialogues where he is not the main speaker, such as the *Sophist* and *Statesman*, there is still philosophical argument going on to which he can be represented as a symbolic audience, even if he would be anachronistic as a participant.

In the work itself there are some passages which are more traditionally 'philosophical' in the sense of containing philosophical argument. The main example, of course, is Book 10, where the references to god and reason that we have had up till then in the work are explicated by a cosmology which is like, though much less elaborate than, the cosmology of the *Timaeus*, and an argument based on motion which is clearly a forerunner of Aristotle's more careful and elaborate arguments in the *Physics* and *Metaphysics*.<sup>114</sup> The ideas worked out in the arguments of Book 10 are new, and we shall see in Chapter 6 that they have important implications for the ideal society of Magnesia.

Plato is far from having given up on philosophy, though the *Laws* contains relatively little philosophical argument.<sup>115</sup> The dialogue develops and works out an entire new theory about the ideal society, where citizens will be virtuous and so live happy lives; and we also find, by the end of the work, a metaphysical argument which is to give us a new perspective on the theory that has been worked out. Despite the admittedly laborious style in which the dialogue is written, the *Laws* shows vigour of philosophical thought rather than decline. It is easy for us to miss this, particularly since much of the actual legislation in the *Laws* is reactionary, not just by our standards but by those of Plato's own society.<sup>116</sup> But this should not lead us to miss the importance of the new framework in which Plato sketches the ideal society for the second time.

<sup>114</sup> Again, this is most likely due to prolonged philosophical discussion and cooperation between the two, so that it is fruitless to try to establish 'which came first'.

<sup>115</sup> See Horn (2013b). *Laws* 857d2 and 967c7 are the only passages where philosophy is referred to.

<sup>116</sup> Particularly in the treatment of slaves and the ways in which penalties for killing are sometimes returned to the families affected rather than being inflicted by public bodies.



## 4

# Virtue in a Framework of Law

### Living Virtuously and Happily

The law code for the new foundation of Magnesia is Plato's second attempt to show that the only good society is one in which citizens live happy lives, and that this can come about only when they are educated to live lives structured by pursuit of virtue, rather than money, status, or military victory. How is this to come about? As in Kallipolis, the citizens of Magnesia are all brought up according to a system of education in which all have to participate. This system forms character as well as conveying skills and information; the aim is to train citizens physically and mentally for a life based on farming, but in which military training and worshipping the gods at festivals in dance and song play a large role. Emphatically, this education involves becoming attuned to obeying Magnesia's laws, all of them but in particular the ones that organize the educational system.

So far this does not look importantly different from Kallipolis, apart from the point that all citizens, not just the rulers, will go through this education. In both societies the nature of citizen education is stressed, and there is some overlap here in the details between the dialogues; while the citizens of Magnesia learn to be law-abiding, so do the citizens of Kallipolis. It may look at first sight as though the only important difference is that with Magnesia we get more details of the laws. Yet we are right to hold to the impression we get that law is a greater presence in the education of Magnesia's citizens than it is in the education of Kallipolitans. Where does the difference lie? Here Plato makes several innovations which we need to take account of when we ask whether Plato has produced a good second answer to the question of how citizens are to lead happy, because virtuous, lives.

Plato does not have the Athenian and his companions spend much time discussing the ideas of happiness and virtue. This is in tune with the point that the Athenian is getting his partners in discussion to expand on their own conception of a good society, and this would not be achieved by Socratic discussion about the nature of the subject matter. All three are agreed on basic points about what they want to achieve. A society, represented for them by their own Greek city-states, should have an overall aim of producing happiness in the citizens: 'The basis (*hupothesis*) of our laws has this aim, that the citizens should be as happy as possible, and friends to one another.'<sup>1</sup> The Athenian does not expect, or get, disagreement when he claims that 'it is pretty much necessary that happy people should be also good'.<sup>2</sup> Nor does he expect disagreement to the claim that when the laws are carried out, by persuasion and, if needed, compulsion, the city will be 'blessed and happy'.<sup>3</sup> In Books 3 the companions agree that the survey of history has lessons for them; if they can use these to find out which institutions and laws further, or hinder, a city's happiness they have a fresh perspective on the subject they have been discussing.<sup>4</sup> They likewise agree that a lawgiver should have a single goal at which the entire programme of legislation should aim<sup>5</sup>—indeed this is the basis of the whole strategy by which the Athenian persuades his companions to expand their conception of what education should be doing, educating citizens to be virtuous rather than simply brave. The Athenian also comments that there are various ways in which happiness can be achieved, so that (we and) his companions should not be surprised that the happiness of a state is specified via different routes at different points. At the end of Book 3, for example, where he says that a city should be free and wise and a friend to itself, he immediately adds that we should not be disconcerted to find different terms for what the lawgiver is aiming at, for his objective (*skopos*) is always the same.<sup>6</sup> It is not made determinate, until we get into the detail

<sup>1</sup> Laws 743c5–6. See Meyer (2015) 94–5 (note on 628d5) for a survey of *eudaimonia* in the *Laws*.

<sup>2</sup> Laws 742e4–5.      <sup>3</sup> Laws 718b1–5.

<sup>4</sup> Laws 683b1–6. The Athenian says that we can discuss them *hoion ex archēs*, 'as if from a starting-point', but it is clear from what follows (683e8–684a1) that this is not a fresh start discarding what has gone before, but a fresh approach which provides historical evidence for a theory that has so far just been a matter of words (*logos*).

<sup>5</sup> Laws 705d3–706a4.

<sup>6</sup> Laws 693a5–c5. Cf. 757c6–d5, where justice is the lawgiver's aim.

of the law code, just what way of living their lives will make the citizens live happily, but it is understood that their living happy lives is always the overall aim.

The Athenian likewise refrains from analysing what virtue is, but as the discussion proceeds aspects of virtue are brought out which are not challenged by the others. The tripartite theory of the soul which is so prominent in the *Republic's* account of virtue is not presented to the interlocutors; there is a reference to *thumos*, 'spirit', which as in the *Republic* is distinct from both reason and desires, but no technical use is made of it.<sup>7</sup> There is also a brief analogy between the structure of the soul and that of the city.<sup>8</sup> Plato is leaving his claims about the soul out of the Athenian's presentation so as not to have the law code depend on a philosophical theory unfamiliar to the unintellectual Spartan and Cretan. We need not infer that he has himself abandoned the theory.<sup>9</sup>

Still, virtue is not just a stable disposition to act in certain ways; it has internal complexity. Virtue is the agreement of mature reason with the part of us which, when rightly trained, responds rightly to pleasure and pain, because, while not rational, it is educable.<sup>10</sup> Here 'part' is used untechnically.

My view is this: in children the first childish sensation is pleasure and pain, and that it is these that virtue and vice first come to the soul. As for practical wisdom (*phronēsis*) and stable true beliefs, a person is lucky who acquires them by the time he is old; someone is perfect who has acquired these and all the good things they contain. Education (*paideia*) is what I call the virtue that first comes to children, when pleasure and pain and hate come about correctly in their souls when they are not yet capable of grasping this by reason. When they do grasp the reason, they will agree with reason that they have been correctly habituated by

<sup>7</sup> *Laws* 863b6–9. The tripartite soul is also prominent in the *Timaeus*, which shares many concerns with the *Laws*, so we need not assume that Plato now has no use for it.

<sup>8</sup> *Laws* 689a5–c3.

<sup>9</sup> Recent attempts to find the theory in the *Laws* are in Brisson (2012) and Fossheim (2013). Even the psychology illustrated by the puppet in Book 1 leads Cleinias to say that he has difficulty following it (644d4–6), so the tripartite theory would be quite over his head.

<sup>10</sup> Sauve Meyer (2015), in her commentary on the first two books, brings out the way that the Athenian begins from a conception of virtue, shared by all the speakers, as a kind of self-control of the 'better' over the 'worse' part of the soul, and brings all of them to share the conception of virtue as a *harmony* of the soul's parts, a conception vital for a Platonic conception of education. (The point that this harmony requires temperance, *sōphrosunē*, is taken up later and will be discussed in Chapter 6.) The Athenian's strategy here is another example of enlarging his companions' ideas from the inside.

appropriate habits, and this overall agreement is virtue. The aspect of it which is correctly trained about pleasures and pains, so as to hate what it should hate right from the start to the end, and to love what it should love—if you were to mark this off in your account and call it education, you would in my view be naming it correctly.<sup>11</sup>

Familiarly from other dialogues, reason directs the aspect of us which is responsive to reason but not always aligned with it, and as children we should be brought up to have this aspect educated to be readily responsive to our reasoning. Failure in this is called ‘ignorance’—but it is a particular kind of ignorance:

[What would rightly be called the greatest kind of ignorance (*amathia*)?] The kind when a person who believes something to be fine or good, but hates it instead of loving it, and loves and welcomes what he thinks wicked and unjust. This disagreement between pleasure and pain and his rational belief I call the most extreme ignorance, and also the greatest, because it belongs to the greater part of the soul. The part of the soul that is pained and pleased is like the people (*dēmos*) and the greater part of the city.<sup>12</sup>

Reason in the city is like reason in the person, having to deal with a powerful force which is only properly responsive if previously properly educated. Lack of harmony and agreement between the educable and educating aspects of us is ignorance and folly (*anoia*). The soul-state analogy is quite unlike the *Republic*’s, for the upshot of the comparison here is not that a few rational and wise people should rule the other citizens in the way reason rules the educable aspect of the soul, but rather that all citizens should be educated to be ruled by reason in the way that reason rules in the state.<sup>13</sup> However, the idea of harmony and agreement between reason and the part educable by reason is continuous with ideas expressed in other dialogues in terms of a tripartite soul, so it is not surprising that the accounts of education in the *Laws* are often quite similar to those in the *Republic*.<sup>14</sup>

<sup>11</sup> *Laws* 653a5–c4. *Republic* 401b ff. and e ff. (before the introduction of the tripartite soul) contains similar ideas.

<sup>12</sup> *Laws* 689a1–c3.

<sup>13</sup> Hence the analogy of the educable part of the soul to the majority *dēmos* (*Laws* 689a5–c3) is not appropriate here as it is in the *Republic*.

<sup>14</sup> Cf. 696c8–10, where the person ‘recently called wise’ has his pleasures and pains in harmony with and obedient to correct reasons.

It is taken to be broadly acceptable to think of virtue as an educated disposition of character with reason harmoniously structuring the non-rational but educable part. There is, however, one aspect of the *Laws*' treatment of virtue and character which is unprecedented in Plato. This is the view that what we are motivated by are our propensities to go for pleasure and to avoid pain; this is taken to be a basic truth about human psychology. Scholars have been puzzled by what looks in isolation like psychological hedonism here, expressed in such statements as, 'nobody could willingly be persuaded to do something unless more pleasure than pain followed it' and, 'By nature what is human are especially pleasures, pains and desires, from which every mortal creature is necessarily so to speak suspended and dependent on by the greatest influences.'<sup>15</sup> Here, however, the Athenian is talking about virtue, and certainly not adopting any form of hedonism. He is simply accepting the idea, presumably on the basis of the thought that most people like Cleinias and Megillus accept it, that seeking pleasure and avoiding pain are basic motivations in human nature; he is far from claiming that other motivations can be reduced to them, still less justified in terms of them. When he mentions pleasure and pain it is in connection with reasoning, *logos*; his focus is on forming and educating these motivations so that the person develops stable virtues. Pleasure and pain are 'two fountains let loose by nature to flow; the person who drinks from them whence he should and when and in the right quantity is happy—city and person and living being alike—while the person who does so ignorantly and outside the due occasions would live in the opposite way to him'. (This became one of the few 'memorable quotes' from the *Laws*.<sup>16</sup>) The Athenian retains common ground with his companions, holding that the best life must also be the pleasant life; but a leading theme of his discussion is that the best and happiest life is the life lived virtuously, and since virtue involves educating the part of the soul susceptible to pleasure and pain so that it aligns its motivational force harmoniously with that of the person's reason, clearly the pleasure that the virtuous person takes in living virtuously will be different from the pleasure that the selfish person takes in fulfilling his desires for eating, drinking, and sex (Plato's standard examples).

<sup>15</sup> *Laws* 663b4–6, 732e4–6.

<sup>16</sup> It is cited by Arius Didymus in his account of Plato on pleasure, where he makes a comparison with Democritus. See my (1999) chapter VII, especially 139–41.

Plato's strategy here is similar to the one that he has the Athenian use to persuade his companions to join with him in developing a society very different from theirs; rather than try to impose principles from outside their thinking, principles which they would not understand, and would probably reject if they did, he works with the idea of our basic psychology that they have; apart from our reasoning abilities we are motivated to pursue pleasure and to avoid pain. Starting from this, rather than rejecting it, the Athenian proceeds to get them to accept the idea that most of us are in a fog about pleasant and painful things, and that we need a good lawgiver to sharpen our sight and show us, eventually, that the virtuous life is the most pleasant, even though this may not be what we would have suspected at first.<sup>17</sup> Rather than warming to hedonism Plato is showing that the view about the happy life lived by the people who will be Magnesians can also be recommended as the most pleasant life to ordinary people like Cleinias and Megillus. They think commonsensically that what motivate us are pleasure and pain, but are willing to follow an argument which will enlarge their view of what pleasure and pain are and enable them to see that what they might well not have thought was pleasant, namely the virtuous life, is in fact the most pleasant.<sup>18</sup> Cleinias' initial resistance to the idea that only virtue is required for happiness is best seen as a sign that not only is his conception of virtue too rigid, focussing too intently on courage—his conception of pleasure is also too rigid, thinking of it too commonsensically as attached to bodily pleasures. He and Megillus will be educated throughout the book not only to expand their conception of virtue, but to improve their conception of pleasure, until they can see that virtuous activity is itself pleasant. This latter is done implicitly; philosophical arguments about pleasure, which they would never follow, are to be found in the *Philebus*.

<sup>17</sup> Removing the fog: *Laws* 663a9–c5. This passage brings together the idea that pleasure and pain are our basic motivators and the idea that we can be wrong about what things are really pleasant and painful, needing to be educated to discover their true sources. Cf. *Republic* (587d12–588a10), where even in terms of pleasure we find that the philosophical life is the most pleasant. Plato appears to hold firm to this idea, even when working with very different methodologies.

<sup>18</sup> On the arguments about pleasure and pain see chapter 7 of my (1999), Meyer (2012) and (forthcoming), Warren (2013). I have obviously not been able to do full justice to these passages here.

As for the claim that the city is to render its citizens happy by making them virtuous, this is the theme of the whole book. The Athenian does not set this out as his explicit aim; but, as we have seen by now, to do this would run against Plato's method here. The Spartan and Cretan already believe some limited version of the claim that only virtuous citizens live happy lives, so they do not need to have this put forward as a goal of the conversation. Their problem is rather that their notions of both virtue and happiness are too narrow and rigid. After they have been softened up, in the introductory conversation, to accept a broadening of the horizons of their cultures, they proceed throughout the work to follow along as the Athenian develops the model of a society with an enlarged conception of virtue, and a conception of happiness in which pleasure is included, but in a rethought form.

With happiness, virtue, and the claim that only those living virtuously live happily, then, the *Laws* is not very far from the *Republic*.<sup>19</sup> The major difference comes, as already claimed, in the new role that law plays in the *Laws*. This can be brought out by focussing on four points about law which are developed in the work and which shape the conception of virtue in it. These are: the nature of law; the kind of obedience citizens should have to the law; the kind of understanding citizens should have of the law; and the overall aim of the law in making virtue not just a general aim but a priority in citizens' lives. These issues are all raised in the three books forming the introduction, and dealt with more expansively in the development of the Magnesian law code; this enables us to see in retrospect that these books introduce Plato's new project not only by illustrating a new methodology for it but by touching on issues which emerge as central for the society of Magnesia.

## The Nature of Law

Famously, the first word of the *Laws* is 'God'. The Athenian opens the conversation in a way which reminds his audience that Cretan laws were given by Zeus and Spartan laws by Apollo. Athenian law, the audience would reflect, has no divine lawgiver; it was seen by Athenians as the end of a developing process of human lawgiving, of which their famous

<sup>19</sup> Though there is always the complication that in the *Republic* this claim is clear for the rulers, but more problematic where the other two classes are concerned.

lawgiver Solon provided the most famous contribution, but by no means the final one. It is not fanciful to think that for Plato Spartan and Cretan folk beliefs are a crude grasp of an important point which is central to the *Laws*: law is divine, in ways brought out in the work, not just the product of human politicking and compromise, something to be endlessly adjusted through ongoing human political activity. Law is something that can be got right and then lived with, something that Plato thinks that societies of the Spartan and Cretan type have grasped, while those of the Athenian kind, with their endlessly changing laws, have not.

From Book 4 onwards we find the Athenian distinguishing between true law and law as the mere result of political compromises. Cities whose laws are the result of the latter are not really cities, or constitutions (*politeiai*) at all, he claims; they are merely ruling factions (*stasiōteiai*). A true constitution is one where what is supreme is not a human or group of them, or laws embodying some factional interest, but true law, which is presented as divine. Metaphorically, it is what enables us to emulate life in the age of Cronus, the golden age, where humans lived happily because they were ruled by divine spirits (*daimones*) who looked after us in the way that we humans now look after non-human animals—by, that is, providing the rational guidance these animals cannot provide for themselves. In the age of Cronus humans had unfailing rational guidance provided externally by *daimones*, whereas now, in the fallen age of Zeus, we have to do the best we can with our own internal resources; since our individual reasons are insufficient to enable us to live rationally both individually and collectively, we need to follow the guidance of external reason in the only form we now have it, namely the law. Law is what unites humans who live according to their reason, and so cooperate, rather than living according to their individual views about what they want; hence the Athenian claims (wrongly) an etymological link between reason (*nous*) and law (*nomos*), calling law the ordering of reason. It's by following our reasoning rather than our individual desires that we will follow 'the immortal element in us', and in our social lives this takes the form of obeying laws—where, of course, these are good laws, which not all actual laws are.<sup>20</sup> There is a brief mention of law as associated with order (*taxis*) which unifies

<sup>20</sup> *Laws* 712e9–715d6.



otherwise disorderly elements,<sup>21</sup> and the idea that it is divine comes up in claims such as that service to the laws is service to the gods.<sup>22</sup>

We are not given a way of interpreting these obscure ideas until Book 10, where we find a cosmological theory developed which greatly expands our ideas about the nature of law. This aspect of the dialogue will be discussed at length in Chapter 5. However, even from these passages earlier in the dialogue it is clear that the Athenian's view of law fits far better with the Spartan and Cretan conception of law as a divine gift, not to be meddled with, than with the Athenian conception of law as something with a human history which it is up to us to develop further. Whatever the concessions to the content of Athenian law we find in Magnesia's law code, the Athenian starts from the idea that true law (not the defective examples we see in actual states) is objective, and its truth is objectively given, to be discovered, not created by human political activity with all its flaws.

## Obedience to the Law

Citizens of Magnesia have a new standard for obeying the law: they are to think of themselves as *slaves* to the law. This is a new and deliberately provocative idea; we shall see in the next section that slavery is to be combined with freedom in a novel way. The idea that a citizen is a slave to the laws is not entirely new in Plato: Socrates in the *Crito* represents the Laws of Athens as telling him that he is their offspring and slave, using the idea to make the point that laws have authority over the citizen whether he likes it or not.<sup>23</sup> The idea is introduced, however, only in the context of the actual laws of Athens, and is not developed either as an ideal for the authority of law or as having any counterbalance in the citizen's attitude to law.

This startling idea of slavery to the laws is announced by Plato in the introductory Book 3 when he makes the Athenian praise his compatriots of the generation of Marathon for their willing slavery to their laws. This is a striking way to describe the 'great generation' of the Persian Wars, who fought, in popular thought, for Greek *freedom*, especially at the

<sup>21</sup> *Laws* 875c–d. A germ of this idea can be found at *Gorgias* 594c–e.

<sup>22</sup> *Laws* 762e. <sup>23</sup> *Crito* 50e2–51a7, especially 50e2–4 and e7–51a2.

battle of Marathon.<sup>24</sup> It is rubbed in by the comment that the threat of Persian destruction of Athens ‘made us serve an even greater slavery to the rulers and to the laws’. This slavery to the laws is mentioned frequently in this passage with approval.<sup>25</sup>

Plato is taking off from the point that slavery was familiar as a metaphor for political domination. Plato’s audience thought of the Persians aiming to ‘enslave’ the Greek cities by bringing them under Persian domination; this is what the foreign invading force of Atlantis does in Plato’s Atlantis story, where it is virtuous ancient Athens which stands for its own and Greek freedom from this slavery.<sup>26</sup> The author of the seventh ‘Letter’ speaks enthusiastically of Sicilian Greeks ‘enslaving’ the island’s Carthaginians more drastically than their ‘slavery’ in the past, where it is not literal slavery, but political subordination, which is in question.<sup>27</sup> Still, the idea of slavery to the laws is harsh, and goes further than the comment Herodotus ascribes to the exiled Spartan king Damaratus, travelling with the Persian invaders, that Spartans fear the law as their master more than Persians fear their king.<sup>28</sup>

Plato is aware of the unease this metaphor is bound to arouse. In Magnesia, the laws about the status and treatment of actual slaves are harsher, and draw the lines more sharply, than contemporary practice in Athens (but possibly nearer to the Spartan norm<sup>29</sup>). The relation of master and slave is one of unquestioned domination, and Plato thinks that we should recognize this and look it in the face, rather than trying to soften the institution in ways that he thinks weak and counterproductive.

<sup>24</sup> Plato holds that it was the land battles of Marathon and Plataea which saved Greeks from the Persian Empire in a way which had good results. The sea battles he disparages, as having led to bad results, presumably the full Athenian democracy and its acquisition of a sea empire (*Laws* 707a4–d6). See also Chapter 3, note 88.

<sup>25</sup> *Laws* 698a5–c3, 699c1–d2, 700a3–4, 701b5–c4.

<sup>26</sup> See my (2013b). I defend a version of the now widely accepted view that the Atlantis story, in the *Timaeus* and *Critias*, combines the stories of the Persian and Peloponnesian wars in a way which is highly critical of Plato’s contemporary Athens.

<sup>27</sup> *Seventh Letter* 333a2–4. I do not accept the authenticity of the ‘letter’ (see Irwin (2009) and Burnyeat and Frede (2015)), but after repeated examination it appears not to have any unplatonic stylistic features, so is presumably not misleading as a comparison with Plato’s style.

<sup>28</sup> Herodotus, *Histories* VII, 104.

<sup>29</sup> The ‘Old Oligarch’ makes some chilling remarks on this theme; he points out that you can’t hit slaves in Athens, or make them give way, as you might mistake a free man for a slave, since it is not obvious which people are slaves. Also, ‘In Sparta my slave would be afraid of you’ while this is often not true in Athens, as many slaves have a lot of money (10–12).

A master's communication with slaves, the Athenian says, should be mostly one of command (*epitaxis*).<sup>30</sup> That's what the relationship is, and we should be clear about that. Plato is unworried by thoughts about the slave; he worries about the citizen masters ruining their own character by being uneasy about the relationship and either weakly evading its implications or overstressing their authority and becoming brutal.

Given this, it is striking that Plato represents law's relation to citizens as a command (*epitaxis*)—a command like that to a slave, to be obeyed without answering back, delaying, or trying to negotiate. In Kallipolis the rulers were not to be given orders (*epitattein*) what to do, since good people, educated to be law-abiding, can work out for themselves what laws to impose.<sup>31</sup> All Magnesians, however, are to have the attitude to law that Spartans have: ready and prompt obedience rather than foot dragging. This attitude is to characterize both officials and those they supervise. Of officials the Athenian says,

We say that the highest service of the gods is to be given to the person who is first in being most readily obedient to the established laws, and wins this victory in the city . . . I have called servants of the laws those referred to as rulers not for the sake of innovation; rather I hold that the city's safety, and the reverse, depend on this most of all.<sup>32</sup>

In the case of officials we can see this attitude as a way of preventing corruption, nepotism, or favouritism. But it is stressed as an attitude that *all* citizens must have, and in an interesting passage we see a rationale:

Every man should have this view about every person, that he who has not served as a slave could not become a praiseworthy master, and that we should take pride in serving finely as a slave rather than in ruling finely—first serving the laws, this being slavery to the gods, and then the young serving their elders and those who have lived notably.<sup>33</sup>

This comes in a context detailing the work of the country wardens, a position which people will fill in turn, and we find the citizen ideal of

<sup>30</sup> *Laws* 777e6–778a1. Morrow (1939) shows in his study that when Plato departs from contemporary Athenian practice it is nearly always in the direction of strengthening the institution and emphasizing the distinctions between slave and free. Masters and slaves cannot be friends (*Laws* 757a1–5). The metaphor is also used for the relation of soul to body (as at 72514–5).

<sup>31</sup> *Republic* 425d–e. See Chapter 2, 9–13.

<sup>32</sup> *Laws* 715c2–d6. <sup>33</sup> *Laws* 762e1–7.

‘ruling and being ruled’: a citizen has to get used to being ruled as a citizen before he can rule properly over citizens, experience of each role informing the practice of the other.<sup>34</sup> It is in this spirit that the Athenian insists that in military exercises a citizen must get used to being under constant command without complaining; he or she will get used to this and also to commanding people who will be similarly responsive to command.<sup>35</sup>

Magnesians are to be unquestioningly obedient to their laws, which are the ideal laws of the ideal society. Nothing suggests that Plato thinks that anyone in Magnesia, still less the actual world, should have an attitude of unquestioning obedience to any actual laws. This kind of obedience to law brings with it the idea that the law is an established and known system, not an ongoing work in progress. Magnesia’s laws are to be fixed, with very little room for adjustment and no expectation that the citizen body will continually be thinking about changing them.

It is actually somewhat unclear just how far Magnesia’s law code is to be set in stone. In one passage the Athenian says that after ten years for adjustments the laws about the organization of religious festivals should have worked out all the minor problems and can henceforth remain unchanged.<sup>36</sup> There is no suggestion that this should generalize to the law code as a whole. Indeed, one passage compares the legislator’s work to that of a painter whose work is so delicate that he needs to touch it up a great deal before he is satisfied; to preserve it he needs an equally skilled successor who can repair the damages of time and add any needed improvements. The Guardians of the Laws are indicated as the analogue of the painter’s successor, and are exhorted to ‘touch up’ the laws as required, but never allowing any other aims to encroach on the laws’ overall aim, the citizens’ virtue.<sup>37</sup> One passage has been misunderstood,<sup>38</sup> where the Athenian, in response to Cleinias’ request for a ‘paradeigm’ by which the education officials of Magnesia can assess poetry, replies that the present discussion is the best paradeigm that he can offer is their own

<sup>34</sup> This phrase is taken up by Aristotle in the *Politics* to indicate the nature of political rule, as opposed to non-accountable rule.

<sup>35</sup> *Laws* 942a5–943a1 (see also 829e4–831b1). This passage has been misinterpreted as indicating the general attitude of the citizen to all laws.

<sup>36</sup> *Laws* 771e5–772d4. See Bobonich (2002) 395–408.

<sup>37</sup> *Laws* 769a4–771a4. <sup>38</sup> *Laws* 811c6–d6.

discussion, which seems to him like poetry<sup>39</sup> in having a kind of divine inspiration, and which strikes him as the best of any composition he knows of, in prose or verse, for Cleinias' purpose. This is not, as some scholars take it, a claim that Magnesians will literally live their lives by the unchanged words of the *Laws*.<sup>40</sup> Rather, the Athenian is claiming that the content of the dialogue—in particular the priority of virtue—will give the educators the best template for bringing up the young.<sup>41</sup> Plato's second city in words is no more a practical blueprint than the first (it surely requires a tin ear to read the dialogue that way).

The later passages about the 'Nocturnal Council' tell us that some experienced older officials will keep in touch with what is happening in the rest of the Greek world, and one of the Council's jobs is to ensure adjustments in Magnesian law or practice in order not to be at a disadvantage with respect to other cities. Outside Magnesia there may be outstanding people whose ideas are worth knowing about, and the Nocturnal Council needs to keep up with this, since such people can crop up even in badly governed cities.<sup>42</sup> This passage shows that continuing contact with other ideas is needed to keep governance of Magnesia from sliding into mere routine (*ethos*). Overall, however, the message of the work is that the Magnesian law code, once established with its main aim clear, is to be regarded as settled. Law making is not to be a normal part of Magnesian politics or civic activity. Magnesia is a highly participatory society in one respect: as in Athens citizens take turns in filling official roles, and citizens 'rule and are ruled in turn' with no permanent citizen bureaucracy. The Athenian goes into great detail about the various offices and the means of filling them. The procedures are quite like those of Athens, though less democratic, since there is more use of voting

<sup>39</sup> The word *poiēsis* here has a broader reference than our 'poetry' and refers to compositions in metre, sung or recited, as contrasted with the present discussion which is in prose and 'unordered' (*chudēn*)—that is, not controlled by metre.

<sup>40</sup> Saunders, for example, in his translation notes, labels the *Laws* as a 'set text' in Magnesian education, and Laks (2000) envisages it being used in this way.

<sup>41</sup> In this I am following Meyer's admirable (2011) 398: 'The Athenian's point here . . . is not that the dialogue *Laws* (unadorned with the beauties of rhythm, meter, diction and melody) should be read to the young, but rather than its message or content (the *logoi* it contains, 811d2) is what they should hear in the works of the poets.'

<sup>42</sup> *Laws* 951a4–953d7. This will be discussed in more detail in Chapter 5. These people are called *theioi*, 'divine', because they have escaped the corruptions of their society 'miraculously'.

and more influence overtly given to citizens with more property.<sup>43</sup> But citizens do not participate in ongoing law making; in Magnesia the job has already been done.

The ordinary citizen of Magnesia, then, has no voice in changing the laws he or she lives under, though living in a city where all citizens (unlike Kallipolitans) are political equals and all join in running the society. (They don't join in to the same extent; the less well-off will need more time to look after their own farms than the more well-off, and so more of their commitments, for example to lengthy voting procedures, are voluntary. However, even the well-off are no more than four times wealthier than the worst-off, so inequalities are not very marked.)

However, isn't there a danger that Spartan-type readiness to obey the law might result in Spartan rigidity, lack of imagination, and sometimes obtuseness about following laws and rules? Citizens who obey the law unquestioningly may surely fall into so doing out of mere deference and even routine. This is not just a problem for us; we can see from the introductory conversation that Plato is aware of it too, given the frequent criticisms of Sparta and Cretan cities for having an aim in their law making which is too narrow, and which leads merely to military excellence. The limitations of Spartan and Cretan focus on only the soldierly virtues can be seen in the characters of Megillus and Cleinias: they have little to contribute of their own, and illustrate shortcomings in their education, as opposed to that of the Athenian, who is more knowledgeable about law and virtue than they are, and has also thought about it in ways that are unimaginable to them.

This issue, of Magnesian citizens' attitude to their laws, is a vital one for Plato. If the citizens of his second ideal society obey their laws merely because they are like Spartans to whom it would never occur to do anything else, they fall short of what virtue requires, as we come to see through the work as we learn about the lives of citizens who live by their laws in the right kind of way, one which gets increasingly spelled out.

<sup>43</sup> See Morrow (1993) chapters V and VI, Stalley (1983) chapters 11–13, Bobonich (2002) 374–84. Plato favours election over use of a lottery for appointing officials. In Athens the lottery was seen as a democratic institution, embodying the idea that anyone was competent to serve the city actively, while elections favoured (perceived) expertise.

## Citizens' Understanding of Law 1: the System of Education

Citizens of Magnesia are to have a deeper understanding of the laws they obey than Spartans and Cretans with their limited and war-focussed education. In Magnesia all citizens (women as well as men, though there is some confusion and ambivalence on this point<sup>44</sup>) have the same publicly organized education right from birth (and before, since pregnant women are to take specified exercises). This system, adumbrated in Books 1 and 2, is very like the educational system in the *Republic* in that it takes a holistic approach to educating people: children are to be brought up to enjoy, and to dislike, not only kinds of intellectual work but also kinds of exercise and types of music, dancing, and singing—in fact, a wide range of culture. Their characters are to be formed by all of their education, whether physical, intellectual, or emotional. As in the *Republic*, Plato attacks his contemporaries' felt need for novelty, aiming for an education that will result in young people and old enjoying the same things, especially music and dancing. He praises the ancient Egyptians for what he takes to be their literally setting in stone a repertoire of gestures and movements that were not to be changed, ascribing desire for novelty to unwarranted belief on the part of most people that they have good judgement about the arts. As in the *Republic*, great stress is put on the notion of representation or *mimesis*, though in the *Laws* the discussion is simpler and the context is that children are to represent good character (in music and dance) as a method of habituating themselves to acquire the relevant good character before they are old enough to learn rationally what the point is of having such a character.<sup>45</sup>

One striking difference from the *Republic*, already noted, is that the moral psychology on which this account of education is built is the assumption of pleasure and pain as our basic motivators, an assumption which Cleinias and Megillus, as unreflective people, are assumed to share. In particular we find the model of a person as a puppet whose movements are produced by 'rigid cords' of pleasure and pain, though it also has a 'soft, golden cord' of reason to move it.<sup>46</sup> The image is difficult to apply to a marionette on strings, and seems at first to suggest a wind-up

<sup>44</sup> See Samaras (2010), and Chapter 3 n 6.

<sup>46</sup> *Laws* 644c4–645c6.

<sup>45</sup> *Laws* 655d5.

toy which when started off can ‘move itself’.<sup>47</sup> It is probably safer to think of a marionette moved by strings, but one which has a central cord whose movement moves the cords of the limbs in a coordinated way.<sup>48</sup> The idea is then that when I am motivated to seek pleasure and to avoid pain I am responding in a way which is like being pulled by the internal stiff cords of the toy, which keep it going by moving the limbs. But I can also be motivated in a different way, by the ‘soft’ golden cord which gets the toy moving as a whole and is analogous to motivation which expresses my agency as a *whole* person. The toy image brings out the point that, although pleasure and pain are strong motivations, the way they work in a person’s life is not brought about by them alone, but by a different kind of motivation. This is reason, which determines how the person as a whole acts. As in the *Republic*, reason is distinguished as a different kind of motivation from our particular desires; it expresses the determination of the whole person, and the person’s other motivations are subordinate to its requirements.

When I act from reason I align myself with public reason in the form of the law (this is a point filled out later). Being motivated to follow the law thus expresses my agency in the form of acting in a way which is the result of reflection on my situation (eventually, my life) as a whole rather than just yielding to the momentary attraction of pleasure or repulsion from pain. It also expresses my agency as a citizen among others, one who recognizes the *common* nature of reason in the law, reason which is public and available to all. We desire to get pleasure and to avoid pain, but our lives overall are shaped by our acting (or not) on good reasons, and it is this which determines the kind of pleasures we allow in our lives and the kind of pains we allow ourselves to avoid. If we do not take this overall shaping seriously we will end up drifting along and letting the forces of pleasure and pain send us all over the place in seeking gratifications and avoiding disappointments, and our ability to think and act rationally will be weakened. Hence, Plato holds, we can help or ignore the golden cord of reason; it is up to me to help pull it and thereby act as

<sup>47</sup> Berryman (2010) gives evidence for such toys, but all much later than Plato. The ‘toy (*paigion*) of the gods’ is a *thauma*, something which is amazing or surprising, which suggests something which when started in some way goes on apparently on its own, rather than marionettes all of whose limbs dangle from strings and are obviously moved separately by the manipulator.

<sup>48</sup> As is suggested by Schofield (2016).



an agent rather than let myself be yanked around by my responses to pleasure and pain.

This is the model of the person on the basis of which Plato emphasizes the importance of early habituation of children. Some will be habituated into the early use of tools they will use as adults,<sup>49</sup> but all citizens must acquire traits and habits of character in which our responses to pleasure and pain are thoroughly educated. Everyone, we have been told, draws from the stream of pleasure, but only those who do so in the right ways live well. It is on this basis, as we have seen, that Plato feels free to put forward the claim, much misunderstood out of its context, that nobody would choose to do anything unless convinced that they would gain more pleasure than pain from it.<sup>50</sup>

The introductory conversation also gives us an interestingly more mixed picture than does the *Republic* of the initial responsiveness of human nature to education and formation. The education, as we would expect of early education, is sometimes described as working in the way that spells or charms (*epōdai*) do—that is, working at a sub-rational level. But Plato now accepts that we have some implicit readiness to accept rhythm and order in our movements. Early physical training, he now holds, does not impose order on pure anarchic energy, but appeals to our readiness to find orderly movement attractive and brings out an effortless response to disciplined movement.<sup>51</sup> Plato continues to rely on sub-rational modes of influence on us, but he finds greater response to reason already at an early age than he did elsewhere. This mixed picture is what we find throughout the rest of the dialogue in the ways Magnesian laws work to produce virtuous citizens. It also illuminates the way that the greatest ignorance is now not a purely cognitive defect but a disconnect between your evaluations and your feelings.<sup>52</sup>

The ideas introduced in the first two books are developed in Books 7 and 8, where laws are laid down for the education of young citizens, and there is a certain amount of overlap (as in the renewed mention of Egypt

<sup>49</sup> *Laws* 643b4–d4.

<sup>50</sup> *Laws* 633d7–e3, 663a9–b6, repeated at the end of the address to the settlers, at 732d8–733d6.

<sup>51</sup> See the excellent article by Kamtekar (2010).

<sup>52</sup> See *Laws* 688e3–689e2 and this chapter, p 75. The passage at 655d5b–656a9 also discusses the disconnect between judgement and feeling in people who disparage in public performances what they enjoy in private.

as an example of a society rejecting cultural change).<sup>53</sup> These later books sketch the institutions which will sustain Magnesia's culture, notably the public official in charge of the education of the young, and the officials who ensure that babies are properly looked after and young children organized in playgroups before they go on to school. (Oddly, Plato retains his culture's prejudice about the unimportance of schoolteachers, allotting to foreigners, as beneath citizens, the task of conveying simple skills like reading and writing, and poetry to be learnt by heart.) In these books we find the same insistence as earlier on the rejection of change in education and in the ways that children play and learn, on the grounds that no such changes are inconsequential; they produce differences in character which will undermine the carefully constructed overall aim of the laws in producing good citizens. The importance for education of both physical movement and of training that engages the whole person is developed at length, particularly in Book 7, which details the kind of contests which are to encourage the young to excel. One difference from the *Republic* is that all citizens are required to learn moderately advanced mathematics so as to have a proper, non-mystified understanding of the movements of the heavenly bodies.

Magnesian public life rejects one of Athens' major contributions to Greek culture, namely tragic drama. There appear to be drama performances of comedy, but these are to be tepid by contrast with the virulence of Aristophanic comedy, and no citizens are to be performers; as in the *Republic*, Plato is convinced that in acting, and performing generally, character is affected for the better or the worse, depending on the quality of what is performed. The Athenian rejects one of his city's main claims to fame, tragedy, on the grounds that Magnesia itself is 'the truest tragedy'.<sup>54</sup> The problem for the Athenian is not just that some characters in Athenian tragedy are evil, so potentially corrupting to the person acting the part. The deeper problem is that tragedy is a representation of life as serious drama—unlike our own use of the term, ancient 'tragedy' does not require an 'unhappy ending'. And the view of life put forward in many ancient dramas is in conflict with the view at the basis of the law code of Magnesia, namely that it is only the virtuous

<sup>53</sup> *Laws* 656d1–657b1 and 799a1–b8.

<sup>54</sup> *Laws* 817a2–d8. See Meyer (2011) for an excellent discussion of this passage.

life which is the happy one. Magnesia is itself a representation of a way of life, one the Athenian claims to be the finest and best, and the education of its citizens will get confused and spoilt if they are exposed to different representations of life, namely dramas where good people are ruined by the gods out of jealousy, or duties to the gods conflict with duties to the city, or we are encouraged to become emotionally invested in people who persistently lament their ill fortune rather than making the best of it.

The rejection of serious drama also highlights the way that the main expression of public culture is to be festivals to the gods, which are to be frequent (there is one each day somewhere in Magnesia) and to be the main occasions of the citizens meeting and socializing with one another. In one way Plato is simply taking over and expanding the normal roles of festivals to the gods in his culture, ensuring that they have a cheerful character and, unlike the Athenian drama festivals, offer no risks of innovation or confusion to the citizens' characters. What he does is to expand the importance of citizen performance at the festivals; citizens will all learn to sing, dance, and play as part of choral performances in honour of the gods. These practices will train character by forming the physical expression of various emotions in performances which are carefully composed to avoid citizen expressions of undesirable character traits, such as cowardice. As in the *Republic*, Plato takes seriously the role of physical movement in joint activities as a factor in developing character. This aspect of the *Laws* has recently attracted the attention of scholars interested in the character of performance as expression of civic identity.<sup>55</sup>

In another way the role of festivals in the city's culture is being deepened. The point made in the introductory books that festivals are our gifts from the gods is developed in a striking passage in Book 7 after a discussion of the festivals.<sup>56</sup> The Athenian startles his companions by saying that only god is serious and worthy of serious attention—human life is just one of play, since we are puny objects, god's toys; the right way to live our lives is to sing and dance in ways that please them. In its context this claim is somewhat intrusive, and is not followed up; but, as we shall see in Chapter 5, it is important as part of Plato's greatly reconceived idea of the divine, and of law as divine.

<sup>55</sup> See Peponi (2013) and Prauscello (2014).

<sup>56</sup> *Laws* 803d2–804c1.

The education system, organized strictly by laws, is a preparation for the stage of life when citizens expect to understand the system under which they have been brought up. They have, as in the *Republic*, found virtue presented attractively in the overall impact of their culture. They also, however, need to understand the way that virtuous character is the point of the specific regulations that structure their lives, and it is here that Plato propounds an original idea.

## Citizens' Understanding of Law 2: the Preambles

Plato's innovation, one he is clearly proud of, is the introduction of *prooimia*, preambles or preludes to the laws, which explain the point of the law in question. In this Plato found no follower except Cicero, but the preambles are an interesting contribution to political thinking.<sup>57</sup>

A preamble to a law introduces the idea of law as an instrument of *persuasion* (*peithō*) as well as *force* (*bia*)—something new, as the Athenian comments. Plato's insight here is that a law might not be just a 'despotic command' (*turannikon epitagma*) but might also come with a means of persuasion which is 'mixed' or 'blended' with the element of command. In two passages the difference between law with, and without, an added persuasive element is compared to the difference between two kinds of doctor. Free citizen doctors attend to the health problems of free citizens, while their slaves attend to the health problems of slaves.<sup>58</sup> The free citizen doctor goes to visit the sick person, and talks with him and with his friends in order to investigate the ailment from its beginning and discover its nature. The doctor does not give a prescription until the patient is persuaded that it is the right one for his condition, one that he will go on taking until he is cured. In the second passage we find a sneer

<sup>57</sup> The idea of 'prelude' plays on the ambiguity of *nomos* between *law* and *musical composition*. Cicero's use of the prelude or preamble idea will be discussed in Chapter 8. Seneca (letter 94.38) tells us that Posidonius found the prelude idea absurd, on the grounds that the essence of law is to command, not to teach. This, however, is just what Plato is challenging.

<sup>58</sup> *Laws* 719e7–720e9. The assistant doctors are not all slaves (720b2), but they are referred to generally as slaves because they treat slaves, and because they follow the command (*epitaxis*) of the real doctors, rather than having studied medicine as they have. The analogy recurs at 857b9–e8.

at this doctor who practises by 'conversing with the patient and using arguments (or accounts, *logoi*) close to philosophizing, starting from the source of the disease and mounting to the whole nature of—pretty much educating the patient rather than curing him, as though he wanted to become a doctor rather than to get well'.<sup>59</sup> The sneer is envisaged as coming from the slave doctor, who has picked up his master's prescriptions without understanding the theory that the master has learnt. He just goes round sick slaves and, relying on his experience, hands out a prescription 'without either giving or receiving any account' of the problem, rushing on to the next patient.

Here the slave situation is that of prescriptions being handed out to be accepted without the doctor's giving any account of them, an attitude in which no understanding is conveyed to the patient, so the prescription has to be accepted on mere authority. The free man, however, joins with the doctor in investigative conversation until the doctor understands the problem and conveys that understanding to the patient, who is thus, in a modern phrase, empowered to participate in his own cure. Laws which merely command are unflatteringly compared to the slave assistant doctor who lacks any understanding to convey, and so who can only flatly command. Laws with the help of the preambles can not only prescribe (in both senses) but can convey understanding which will involve the citizen in a way which will make him (or her) participatory in that understanding.

Here we find that Plato, as often, is insisting on two ideas which look at first to be irreconcilable, claiming that we can have a synthesis which has the advantages of both without the disadvantages of either. We should be slaves to the laws in obeying them, but as free people we are entitled to understand them; in a modern phrase, we can take ownership of our obedience to law in understanding the basis of it, as the free person takes ownership of his cure in understanding why and how he must follow it. The concepts of slavery and of freedom are both involved in forging a new understanding of citizens' obedience to law.

The general idea is an attractive one, and Plato gives us many examples. The first law mentioned, to introduce the idea of a preamble, is that on marriage.<sup>60</sup> Instead of merely requiring all men to marry between

<sup>59</sup> *Laws* 857c7–e8.

<sup>60</sup> *Laws* 721a3–722a2.

30 and 35, with a fine and loss of status for those who do not, we find the Athenian also giving a preamble which develops the idea that it is natural for each of us to think of himself<sup>61</sup> not as an isolated individual but as a member of a family, which will only carry on if he takes his turn at producing children and so ensuring that he does not pass out of existence forgotten, but aims, as everyone naturally does, to share in being immortal as much as we can by way of sharing in the continuity of the generations.<sup>62</sup> In Book 5, before the law code proper gets going, the Athenian imagines an address to the prospective citizens of Magnesia, as a preamble to the law code as a whole. And each of the laws prescribing citizen behaviour is then preceded by a preamble explaining its point.

What are the preambles envisaged as doing, to lead us from blank obedience to a command, as with the slave patients of the slave doctors, to obedience with the kind of understanding which enables the free patient to commit himself to participation in his own cure? The preambles are themselves very varied, and more than one idea is involved here.

The idea that the free patient is being given something like philosophical argument suggests that what is crucial here is rational explanation of the laws and their aims. This is not only an attractive idea itself, but has as its exemplar the longest and most elaborate of the preambles, the one in Book 10 which occupies most of the book. It is a long and complex argument about god, put forward as the preamble to the law on impiety, and is readily seen as showing us the way preambles are to work.<sup>63</sup> We should be cautious, though, about the implications of the relationship between free doctor and free patient, in which the doctor conveys understanding by 'giving an account', an explanation which may verge on philosophical explanation. There is nothing in the *Laws* to suggest that the explanation in question features the patient, or the citizen, coming to have their own ideas about what should be done, or being entitled to reject the proffered explanation when they do understand it. Although the *Laws* differs from the *Republic* in featuring a society in which the laws must be explained to all, not enforced on the many by the

<sup>61</sup> The preamble is addressed to men who are to think of themselves as becoming heads of families. The citizen role of women is forgotten here.

<sup>62</sup> The passage is reminiscent of the lower stages of the yearning for immortality in *Symposium* 207c–208e.

<sup>63</sup> It is defended as such by Bobonich (2002).

expert few, there is no hint of the idea that laws have authority only when citizens consent to them.<sup>64</sup> The model is still the doctor, as it is in the *Republic*; now he has to explain to you what you have to do (as the rulers did not in the *Republic*) but he is still the one who is taken to have knowledge of what is good for you and what you should do. The difference that Plato sees in the *Laws* between pure force and force blended with persuasion is the difference between a tyrant who posts up a command on the wall and walks off, leaving you to obey it, and wise and loving parents. Your parents are still going to tell you what you have to do. And you are still going to have to do it.<sup>65</sup>

The Book 10 argument in fact is an exception to the usual kind of preamble. The Athenian puts it forward to meet the case of the young person who has got hold of the idea that we can completely explain the world, including ourselves and our beliefs about the gods, in terms of chance occurrences without overall purpose. This is a disturbing idea, which has to be met with counterargument. Once there is an intellectual challenge, it has to be met on an intellectual level; it can't be satisfactorily dealt with just by threatening to punish someone who holds such a view.<sup>66</sup> This is why the Athenian reluctantly sees the need for argument here. It's made unmistakably clear that the Athenian's two interlocutors don't follow the abstract argument that he lays out for them.<sup>67</sup> This doesn't matter, since they are not themselves tempted by the views that the Athenian is aiming to disprove. It does make it clear, however, that in Magnesia the understanding of certain laws at least cannot easily be made available to everyone, but has to be provided on a need-to-know basis. There are some people<sup>68</sup> who have superior rational understanding of difficult matters, which the rest of the citizens don't have and are presumed not to need except in special circumstances. This is not the gap between rulers and other citizens of the *Republic*; everyone in Magnesia

<sup>64</sup> Cohen (1993) and (1995) 43–51 argues that the force of Magnesian law will depend on the citizens continuing to sustain their authority, since Magnesia is envisaged as a modified democracy. This underestimates Plato's commitment to real or true law as something distinct from what citizens pass in political assemblies (this is discussed further in Chapter 5).

<sup>65</sup> *Laws* 859a1–6. Cf. earlier, 660a3–8: the lawgiver will persuade citizens to practise melodies and dances imitating good character, 'and if he fails to persuade he will compel them'.

<sup>66</sup> *Laws* 889b–890e.

<sup>67</sup> *Laws* 892d–893a.

<sup>68</sup> Members of the 'Nocturnal Council', discussed in Chapter 5.

will, for example, learn quite advanced mathematics.<sup>69</sup> But there will be a few experts in advanced thinking who will be brought in as required to put straight citizens who are threatening to go astray in their understanding of their society; and Plato as before has no qualms about giving the experts the authority to tell those others how to understand themselves and their world.

The Book 10 preamble is not, then, a model of preambles generally. When we look at them we find rather little argument. The preamble to the law commanding men to marry between 30 and 35 gives some exposition, but there is no argument. Most of the preambles make no effort to convince someone who might disagree. We have to conclude, then, that although rational explanation may lie behind some at any rate of the preambles, it is not what they typically offer. In any case rational explanation on its own is inadequate to show why the preambles would bridge the gap between law and becoming virtuous. The general system of education involves an intellectual element, but is much wider; the life of the ideal citizen of the *Laws* is one where every activity, in singing and dancing for the gods as much as in thinking about them, is in tune with those of the other citizens, and where virtuous activity is unforcedly enjoyed. Being in possession of rational explanation of the point of the laws is not on its own adequate to produce this.<sup>70</sup> The kind of rational explanation that we find in Book 10 is needed only for special cases.

Some of the preambles are supposed to work on the citizens in overtly non-rational ways, sometimes strikingly so. In particular, when Plato is dealing with sex and violence, he appeals openly to non-rational sources of motivation. Citizens are to take seriously, for example, the myth that the soul of a murdered person will roam the earth seeking vengeance for the crime, and also take seriously the idea that perpetrators are reincarnated in the form of victims who will suffer exactly what they did to their own victims.<sup>71</sup> ‘Spells’ will be used to encourage people to marry suitably, rather than for money, since written laws can’t achieve this.<sup>72</sup> And the very idea of homosexual sex is always to be presented in Magnesian

<sup>69</sup> The members of the Nocturnal Council, however, will have learned much more advanced maths and astronomy. This issue is discussed further in Chapter 5.

<sup>70</sup> See Fossheim (2013) for a development of the idea that different preambles appeal predominantly to different types of person (without assuming a theory of a tripartite soul).

<sup>71</sup> *Laws* 865d3–866a1, 870d4–871a1, 872c7–873b1.

<sup>72</sup> *Laws* 773d4–e4.



culture as unnatural and repellent, so that citizens will not so much as think of engaging in it, any more than they would think of engaging in incestuous sex. Persuading people of this, Plato realizes, will need to appeal to powerful forces which themselves are not rational.<sup>73</sup>

It is only realistic for Plato to think that forces like the urges to sex and to violence are not only powerful but very incompletely responsive to the appeal of argument and discussion. To control them the lawgiver will need himself to make appeal to non-rational forces like fear and natural repulsion from incest. This is not something which is needed in the preambles to laws concerning more mundane aspects of life, like shopping and planting trees. The preambles which make the most explicit appeal to non-rational forces, and appeal to the idea of 'spells' and 'enchancements', are no more typical than the Book 10 argument.<sup>74</sup> It is a mistake, then, to think of the role of the preambles as being typically that of non-rational influence of a suspect kind.<sup>75</sup> The Athenian does say, on introducing the whole idea of preambles, that they will lead citizens to accept the law's command more readily, finding the command easier to understand because of this readiness.<sup>76</sup> But this does not amount to the claim that the preambles are intended merely to soften people up so that they will not ask awkward questions. They are to understand the laws in the way relevant to the kind of law, and while sometimes this will involve philosophical argument and sometimes appeal to non-rational forces, mostly it need involve neither. Most of the preambles are simply discursive statements. The long preamble to the law code as a whole has more than once been likened to a sermon—something in itself remarkable, since there was nothing remotely like sermons in ancient society.

The citizens are to be rendered apt to obey the law because they learn to do so in ways which present it in terms of praise and blame (and prominently shame) which are internalized in ways appropriate to the subject matter and also to the citizens' level of education and intellectual achievement. And the ways the laws are presented are authoritative, not just in the sense of being put forward by people in power but in ways that citizens can come to appreciate as having a deeper explanation, by means

<sup>73</sup> *Laws* 837e–840e.

<sup>74</sup> Cf. early, in Book 2, 659e1–660a3; we will persuade the young by *oidai*, which are really *epōidai* for the soul, like giving sick people nutritious food in pleasant tastes.

<sup>75</sup> Stalley (1983) 42–4 verges in this direction.

<sup>76</sup> *Laws* 723a.

of discussion if not abstract argument. Citizens of Magnesia, then, will obey the law for two kinds of reason. One is 'force': there are sanctions for breaking the law and citizens will avoid these. They won't, however, see this as their only reason for obeying the law; there is also 'persuasion'. They will have been brought up to accept, on a variety of grounds that vary with the subject, that they have reason to avoid doing what the laws forbid. The idea of murdering the intolerable neighbour will make them shudder at the thought of supernatural vengeance. The claim that the gods might be a human invention will be met with philosophical argument to refute it. They will appreciate good reason for not doing a number of more ordinary things: hunting with traps, bargaining in the market, or demanding a dowry; and so they will just not think of doing these things.

Is there something which we can see as the general aim of the preambles? Most of them are positive in form, putting forward the point of obeying the law rather than countering urges to break it. It has been suggested that what the preambles do is to present citizens with an *ideal* to aim at.<sup>77</sup> Since Magnesia is supposed to be an ideal society, where the citizens receive an ideal education to be virtuous, the need for law with penalties and sanctions may seem like a kind of failure to achieve the main aim. It is, the Athenian says at one point, in a way shameful to be legislating for a city which is to be well run and equipped for virtue.<sup>78</sup> Sometimes Magnesian citizens receive different penalties from those of foreigners and slaves who lacked Magnesian education, as with temple robbing, where non-citizens are punished severely, while citizens who do such a thing represent such an inexplicable failure of their education that they are put to death as hopeless cases.<sup>79</sup> The preambles might then be thought to present an ideal where law and its sanctions would not be needed; but real life always requires laws as a compromise with the deficiencies of human nature.

The preambles do put forward an ideal, but it cannot be separated from the force presented by the law and its sanctions, since Plato always has the Athenian talk in terms of a 'double' project of making people be persuaded as well as obeying the law; the law cannot just be a concession to the weakness of human nature while the preambles get us to aspire to an ideal way of acting. To grasp what Plato is doing with his original idea

<sup>77</sup> See Laks (1990, 1991, 2000).

<sup>78</sup> *Laws* 853b3–c3.

<sup>79</sup> *Laws* 854d1–e6.

of a double project we need to see how laws and preambles together form a double but unified project, one in which strict obedience to the law can go together with citizens coming to understand the point of their laws, whether by rational argument, discussion, or appeal to non-rational factors like fear. What unites the appeals to these very disparate kinds of motivation through the preambles? How do the preambles help to bridge the gap between citizens responding unquestioningly to the law's command and citizens learning to become virtuous?

The preambles, in a range of ways, present the ethical ideals implicit in the ways of life structured by the various laws. Here is one example. A law forbids you to leave out traps overnight for animals or fish, say. You obey this because it's the law, and you have been trained to obey the law, so you don't do it. If you ask why you shouldn't do this, especially because it seems such an easy way to catch animals and fish, you will be given the preamble of the law about hunting.<sup>80</sup> This tells you that hunting, like other activities in Magnesia, is regulated by the city; it isn't something that you can just go out and do without thinking about what it is and why you're doing it. And this is because in Magnesia it's not an ethically neutral activity; it falls within the purview of laws and regulations because there are good and bad ways of doing it, which are to be praised and blamed accordingly. The regulations are designed to encourage the proper point of hunting, and to discourage activities which are similar to it but fail to encourage this aim, or encourage aims which are irrelevant to it or even detract from it. Hunting is properly a means of pursuing and killing animals in a way which involves the hunter's own strength and skill, and so cultivates 'divine courage'—that is, courage which is part of a life lived overall in a virtuous way, not merely hardihood or rashness which is instrumentally valuable for gaining some extrinsic end. Hunting so understood is part of the virtue which a citizen must practise to achieve. This results in an account of hunting very different from the ordinary Greek one. Hunters can use horses and dogs to help them, presumably because without these they could not succeed in killing any of the deer or wild boars that they are envisaged as hunting. But they cannot stalk the animals in relays by night, or use nets or traps; these don't require any activity that is 'worthy of praise'. Boys

<sup>80</sup> *Laws* 822d–824c.

are not to trap birds, since this is an activity unworthy of free citizens, presumably because it requires stealth but no exertion. The same goes for fishing with rods and for trapping fish or water animals in baskets. Strikingly, all sea fishing is ruled out. No specific reason is given, but we are bound to recall the Athenian's previous remarks about the disadvantages of a coastal site.<sup>81</sup> Magnesians are to forget about the sea, even as a source of food, because getting used to ships produces cowardly attitudes and brings you into undesirable contact with other cultures. Moreover, sailing will encourage thoughts of kidnapping (and presumably selling) humans, treated here as a 'savage and lawless hunting', and hunters on land may be tempted to use their skills to steal (presumably by stealing farmers' animals).

Hunting turns out to be rather different from what an unreflective Greek might have thought.<sup>82</sup> The point of it, we are told, is not to produce food, since easy ways of doing this are forbidden. Wild birds and freshwater fish may be caught, but their pursuit is restricted.<sup>83</sup> Proper hunting must involve physical effort, skill, and risk in chasing and killing the animals. The resulting physical strengths and skills are not to be valued just for their own sake, since they can be used wrongly, to capture people rather than to kill animals. Rather, it's their use in hunting animals which is valuable for the courage it produces and strengthens. Plato is taking a contemporary activity and remoulding it for a role in his ideal city, where it will enable citizens to practise courage and also to produce meat for the festivals, but where other forms of catching animals and fish are forbidden and other uses of hunting skills also forbidden.

Hunting gives us a good example of the way in which a Magnesian activity is quite strongly structured by laws and regulations, so much so as to lose some connections with the way it is ordinarily practised. The resulting activity, as sketched in the preamble to the law, now has a clear ethical aim, in this case the encouragement of bravery. As they are

<sup>81</sup> *Laws* 704b4–705b6, 706a4–707b3.

<sup>82</sup> See chapters 2 and 3 of Anderson (1985). Xenophon's writings on hunting pay far more attention to hunting hares than to hunting deer and boar.

<sup>83</sup> Unfortunately for fish-loving Athenians (Davidson 1999) only freshwater fish can be caught, and since we find both angling and nets forbidden it is not clear what form fishing can take. Hunting birds is allowed only on mountains or uncultivated country, presumably to make it difficult and so to require more exertion and skill.

brought up, citizens of Magnesia are exposed to more and more activities restructured so as to have a clear ethical aim. In Magnesia hunters are praised for their courage (or blamed for the lack of it), not primarily for the amount of game they bring back. This is one instance of the overarching aim of Magnesia, namely to produce virtue in the citizens and not just ability to get money, status, or military victory.

The market regulations are another example of a fairly mundane activity being restructured so that Magnesians engaging in it will find their focus to be primarily on virtue and not on material success. Among other regulations, we find that someone coming to market to sell an item must put a fixed price on it, and sell it for that price or take it away, and he must not praise his goods or swear to their value.<sup>84</sup> What is ruled out here is bargaining and frivolous oaths by the gods as to the value of the seller's goods. Bargaining involves indifference to truth, since the seller will knowingly make false claims about the price he needs to sell the good at to make a profit, and it also involved, in Plato's society, readiness to swear by the gods to statements known to be untrue. These practices were presumably thought trivial by Plato's contemporaries, but they are taken very seriously by the Athenian; someone who engages in them is making himself hateful to the gods, he claims.<sup>85</sup> Here the seller's purpose in maximizing his profit is constrained by his requirement as a citizen to be strictly honest with others and especially with the gods. As with hunting, these regulations focus the citizen on virtue rather than material or worldly advantage in a way that would seem unrealistic to Plato's contemporaries.

If the preambles work the way Plato hopes that they will, they will help the citizens to develop a positive view of the law. They will not see the laws as possibly disagreeable bounds on what they would otherwise want to do, for they will see activities that the law forbids as blameworthy, aiming at goods which are not the proper aim of citizens. They will despise people who seek to evade the law by hunting fish with traps or animals with nets, since this is cowardly, and also despise people who bargain and swear by the gods as to the value of their goods, since this is taking money to be worth losing your good character for. A positive view

<sup>84</sup> *Laws* 917b–c.

<sup>85</sup> *Laws* 916e. Bargaining was not questioned, as involving lying, until the Quakers introduced fixed prices (the advantages of which speedily got rid of bargaining).

of the role of law among citizens makes it easier for Magnesia to keep going as a law-abiding society. When people despise hunting which is against the rules, they will avoid doing it, because it would be cowardly, and where this is the case there will be less need for officials to find out whether it is happening. When people despise sellers who try to bargain, sellers will avoid trying to bargain, because they will see this as low and dishonest behaviour, and where this is the case the market officials will have less need to police the marketplace to prevent it.

The preambles thus help the citizens to see law-abiding activities as good, virtuous activities, and law-breaking activities as vicious and despicable. This is of course in a good city; in actual societies, Plato thinks, the aims of activities structured by the laws are not ethical, since they encourage selfish, greedy, and aggressive behaviour in those living under them. We can see how Plato envisages laws and preambles working together in the ideal society of Magnesia. When citizens are brought up to understand the point of doing what the law commands, it will not occur to them to do the cowardly, dishonest, and suchlike activities that are forbidden, and so law-abiding behaviour will become self-maintaining, without having to be reinforced by reflection on the penalties for breaking the law.

The citizens are not aspiring to live by ideals that are not embedded in laws; nor are they obeying laws without aspiring further. They are living in ways that aspire to ideals of virtue which are encouraged in the activities structured (sometimes restructured) by the laws. Both elements are needed in Plato's 'double' project. As we can see by now, often the citizens' behaviour will result from internalization of the ideas in the preambles, rather than conscious reflection on them. Magnesians will, for example, spend less time than contemporary Greeks in sleeping, something relentlessly criticized by the Athenian as a waste of time. Citizens and their wives will set a good example by leaping from their beds first in the household, rather than uselessly sleeping while the slaves get things going.<sup>86</sup> Being active longer and needing less sleep obviously can't be done to order; it is a pattern coming from a way of living that has been self-organized and deeply internalized.

<sup>86</sup> *Laws* 806d7–808c6. It is a good example of Plato's puritanism about bodily needs and functions, which comes out also in his reference to our needs for food, drink, and sex as *nosēmata*, 'ailments' (*Laws* 783a4).

The Athenian recognizes the role played in this internalization of patterns of living by praise and blame, and by the ethical force of Magnesian social pressure generally. He puts great emphasis on informal regulation and social sanction. Citizens will praise and blame behaviour in ways that informally regulate it before it gets to the point when punishment needs to be imposed. '[After sketching the best way of life] we shall next discuss matters where it is not law but praise and blame which educate people and make them favourable and responsive to the laws which are to be established.'<sup>87</sup> The idea is that when good laws work well, citizens get past the stage of obeying the law because of fear of penalties, or because of having a habit of rule following. They appreciate what is good in the activities which are structured by the laws, and so their lives are led with positive aims in view rather than fear of sanctions. Citizens who understand their laws as well as obeying them will draw the right distinctions in daily life and praise and blame the right things, even without thinking about actual written laws with penalties. Plato puts weight on this because he realizes that there are areas of life where the law cannot effectively micro-manage, such as detailed instructions for the treatment of newborns; here the Athenian hopes that family life in Magnesia, once it gets going, will develop in the ways he desires.<sup>88</sup>

The informal system of praise and blame, and social attitudes generally, supports the written laws in two ways. The law-abidingness of the citizen becomes a self-maintaining system; citizens do not need to be continually reminded of penalties for breaking laws that it doesn't occur to them to break. And the citizens come to follow the laws and organize their lives in self-directed ways; they see themselves as members of a community of equally self-directed citizens whose lives are integrated through the ways they choose to live, not through continually having to check with rules. The good citizen has thus gone beyond *mere* obedience to law; and this passage brings out the importance of 'unwritten laws', social sanctions which are not formally part of the law code:

<sup>87</sup> Laws 730b4–c1.

<sup>88</sup> Laws 788a1–790b6. Unfortunately this is conceived in a very traditional way, with the male head of household organizing the women and slaves in the household (790a8–b6). This is one of the passages where the expanded role of women as citizens, with citizen education, has been forgotten.

All this kind of thing is the same as what people call 'ancestral law' . . . in every constitution these are bonds . . . exactly like ancestral and very old customs. If these are well established and followed through habit they protect and secure the laws already written, but if they go out of true, like builders' supports in the middle of a house which collapse, they make the whole thing collapse . . . we must bind together this new state . . . leaving out nothing great or small in the way of laws (*nomoi*), habits (*ēthē*) or practices (*ēpitēdeumata*).<sup>89</sup>

This picture of a society regulating its citizens by social influences may strike us as frightening. This is partly because we cannot help bringing in our own knowledge from history of the effects of powerful social pressure on individuals seen as deviant, pressure ranging from making them feel uncomfortable to persecuting them. This is of course what happens in actual societies; Plato can respond that he is setting up an ideal society, where the only people objecting to the law and society's values would be criminals and the vicious—thieves, cowards, and so on. What is wrong with social pressure on people not to steal, for example? Here we come up against the fact that Plato, and ancient society generally, has a blind spot here about what is lost when an individual is made the object of social pressure, including—and perhaps especially—ethical pressure.

We are likely to be even more dismayed by the Athenian's remarks that good citizens in Magnesia will have such a positive attitude to the laws and their being obeyed that they will not only obey the laws themselves but will actively join in their enforcement, intervening and informing on law breakers.

A person is honourable (*timios*) if he does no wrong, but worthy of more than twice as much honour as him is the person who does not let wrongdoers get away with their wrongdoing. The former counts as one against the rest, but the latter as many, in informing about others' wrongdoing to the officials. And the person who as far as he can joins officials in punishing others is to be proclaimed as the great man in the city and completely good (*teleios*, literally 'perfected'), winner of the prize for virtue.<sup>90</sup>

This attitude is encouraged by penalties for people who fail to inform about wrongdoing, and rewards for those who do.<sup>91</sup> In some cases people are encouraged to do what we call taking the law into their own hands.

<sup>89</sup> *Laws* 793c–d. Cf. 822d2–823a6.

<sup>90</sup> *Laws* 730d2–7.

<sup>91</sup> *Laws* 730d2–7. A citizen can get half another's illegal surplus wealth by informing about it (745a3–7). Someone failing to inform on illegal import of Greek currency is



It is easy, in the light of such passages, to make Magnesia look like East Germany under the Stasi, and some readers have seen it that way. We should, though, be especially careful about anachronism here.<sup>92</sup> Plato has no experience of a society with anything like a modern police force, and even his imagination fails to think one up; Magnesia lacks effective everyday enforcement of laws forbidding transgressions like petty theft and fighting breaking out between people. Plato does not even envisage anything like the slave force of Scythian archers which formed Athens' mode of crowd control and was the nearest thing Athens had to a police force.<sup>93</sup> In Magnesia it must be citizens who take responsibility for their own behaviour and that of other citizens. Citizens are thus responsible for a certain amount of 'policing' of lawbreaking that they encounter or witness. Plato thinks that citizens educated in a good state would intervene, when they do, on the side of the law. They would put a stop to a fight, for example, rather than weighing in on the side of their own relatives or friends, and (a recurring concern) would protect the old from attack by the young, whoever they are. Citizens who are indifferent to law-breaking by others are seen as expressing detachment from the law. Magnesian citizens will think of the law as *their* law, and care about its being enforced. Plato is simply being consistent in his project to get citizens both to obey the law strictly and to do so with understanding, recognizing that the activities the law prescribes are *good* ones. Citizens who *care* about the way of life the laws promote will actively help to promote it. Plato could not foresee the dangers of vigilantism, given that he is assuming that the citizens informally policing the laws are all taken to have ideal motivations rather than ones commonly found in actual vigilantes. Nor could he foresee the dangers in an overpoliced society, as we can. Nonetheless, we find here an indifference, visible elsewhere, to

punished as well as the culprit (742b3–c2). Anyone aware of a factional plot and not informing about it is to be punished as well as the plotters (856b–c).

<sup>92</sup> Modern examples that spring to mind like the Stasi also have the feature that not only is the government in question tyrannical, the pressure put on individuals to inform against others has seldom been virtuous or even claimed to be.

<sup>93</sup> We can see from the way Aristophanes presents this force of foreign slaves that it was not respected, indeed was thought of as comic. The principle behind having slaves keep order in crowd situations (such as the meeting of the Assembly) was that citizens should not use force against other citizens, even on behalf of the city, as it too much resembled assault on other citizens for private reasons, which was a serious offence.

problems in individuals identifying so thoroughly with their laws and their enforcement.

The preambles, together with the educational system which is taken as background, enable Plato to develop an ideal of a society where strict obedience to law is blended with appreciation of the aims of law. The notions of slavery and freedom are boldly brought together: in a good society citizens would give their laws unquestioning obedience, but would also retain the dignity of free citizens, who are entitled to know what the point is of their laws. This is a bold conceptual move on Plato's part and, as with any ambitious synthesis, it is constantly tempting to give a lopsided interpretation, stressing obedience at the expense of understanding and so seeing Magnesia as a totalitarian nightmare, or stressing understanding at the expense of obedience and so seeing in Plato the germs of the idea of government by consent. Law functions both by force (*bia*) and by persuasion (*peithō*), never by just one of them.

The result is a remarkable account of how citizens can develop the virtues in a context of strict law-abidingness. Again, we should avoid lopsided interpretations which see Magnesians as blind rule followers; the aim of Magnesia, as much as of Kallipolis, is to produce citizens who lead *happy* lives, and Plato never gives up the idea that this will only come about if they live *virtuously*—that is, justly, bravely, wisely, and temperately. If the citizens are not virtuous, but merely rule followers, the whole project will be pointless. In the *Laws* the citizens' virtues are developed through obedience to laws and then come to underpin those laws; laws are needed to develop the virtues, which then develop in ways which render laws unnecessary for the virtuous; but laws are always there to punish the non-virtuous and to play their part in the development of virtue in the next generation.

## The Priority of Virtue

One theme which is prominently introduced in Books 1 and 2 is that of the *priority of virtue*. As the Athenian is developing the view (part of his 'enlarging from within' strategy, as we have seen) that the laws of Crete *really* aim at the whole of virtue, not just the one virtue, courage, he says,

They work correctly, rendering those that live by them happy, for they provide all good things. Goods are twofold, some human and some divine. The human

ones are dependent on the divine ones; if a city gets the greater it gets the lesser too, but if not it is deprived of both sorts. The lesser ones are headed by health, and beauty is second; third is strength for running and all other bodily exercises, and fourth is wealth—wealth not blind but sharp-eyed, following practical wisdom (*phronēsis*). Practical wisdom itself is the first of the goods considered divine; second is an intelligently tempered state of the soul; when these are integrated along with courage justice is third, and fourth is courage. All these are naturally ranked above the previous ones, and should be so ranked by the lawgiver. Then the citizens must be told that their other instructions all look to these, and that the human look to the divine, and the divine to reason, which is supreme.<sup>94</sup>

The whole of a city's laws and institutions must be focussed on giving priority to the virtues, the 'divine goods', above the merely human goods like health and prosperity. The general idea is familiar to the Cretan and Spartan, though not the depth of the Athenian's concept of virtue and the breadth of scope he has in mind; here we find the enlarging effect on Cretan and Spartan societies of the focus on virtue as a whole that the Athenian has introduced. The idea is repeated slightly later.<sup>95</sup> A short passage in Book 3 presents a more commonsensical division of goods into those of the soul, those of the body, and goods such as property, and this division corresponds roughly to the order in which the law code groups education (Books 7–8), homicide and other offences against the person (Book 9), and issues of property and exchange (Book 11).<sup>96</sup>

What kind of priority is in mind in the first two books? Some parts of the passages claim that the goodness of things like health and wealth is conditional upon the citizens being virtuous (sometimes put in terms of the dependency of these things on virtue for being good).<sup>97</sup> Other parts of these passages, however, suggest a stronger thesis, namely that these other goods have no value for happiness; only virtue matters for happiness:

you [correctly] force the poets to say that the good man is happy and blessed, being moderate and just, whether he is tall and strong or small and weak, and whether he is rich or not; and if he is richer than Cinyras or Midas, but is unjust, he is wretched and lives miserably.<sup>98</sup>

If so, then 'human' or 'worldly' goods will just be the material on which the good man works to produce his life, and if he is virtuous he can be

<sup>94</sup> Laws 631b5–d6.

<sup>96</sup> Laws 697a10–c2.

<sup>98</sup> Laws 660e2–6.

<sup>95</sup> Laws 660d11–664a8.

<sup>97</sup> Bobonich (2002) calls this claim 'The Dependency Thesis'.

happy whether the material is good or bad quality. Other passages are just as uncompromising. 'What must we say after this? A man who is brave and strong and handsome and rich and doing exactly what he desires all his life—don't you think that, if he is unjust and arrogant, necessarily he lives shamefully? . . . and if shamefully, badly?'<sup>99</sup> Cleinias balks at the move from 'shamefully' to 'badly', but the Athenian argues him out of this.

We also, however, find passages that suggest that the human goods can be good for the person, but only in the context of a virtuous life, where they are valued in the appropriate way and put to appropriate use. This makes them good, but only conditionally so; on their own they are neither good nor bad, but in a virtuous life they make that life better, while in a vicious life they provide occasions for acting wrongly and so are bad for that person. 'What I say clearly is that what are called evils (*kaka*) are good for the unjust, but evil for the just, while [so-called] goods (*agatha*) are truly good for the good, but evil for the evil.'<sup>100</sup> Does Plato have a consistent position here?<sup>101</sup> We find a similar problem in interpreting a passage of another dialogue, the *Euthydemus*,<sup>102</sup> where Socrates, given the shared assumption that everyone wants happiness, and that we achieve this by getting goods, asks what kind of things are good. Just as we don't benefit from having stuff around unless we can put it to good use, we don't benefit from conventional goods like health and wealth unless we can put them to virtuous use. This passage is similarly complicated by the fact that we have indications both that conventional goods are good only conditionally on your being virtuous, and that conventional goods are not good at all in the context of happiness; only virtue is.<sup>103</sup> Moreover, we find an analogous problem in the *Republic*, namely that there is unclarity as to whether the central claim is that, in the worst possible circumstances of the actual world, the virtuous person will be happy, or that he will be *happier* than the vicious, but not happy (for that would require virtue and favourable circumstances).<sup>104</sup>

<sup>99</sup> *Laws* 661e6–662a5.

<sup>100</sup> *Laws* 661c9–d3.

<sup>101</sup> See Meyer (2015) 108 ff. for the interesting suggestion that the sufficiency thesis should be taken to apply to the city, not directly to the citizens. Carone (2002) argues that the sufficiency thesis applies once the citizens have adequate external resources.

<sup>102</sup> The 'Socratic protreptic' passage, 278–82.

<sup>103</sup> For discussion of this passage, see my (1994) and my (1999) chapter 2, especially 40–2.

<sup>104</sup> See my (1999) chapter 4 on this debate.

Plato, who is the first philosopher to develop a position that a happy life requires the priority in it of living virtuously, and dealing with the circumstances of your life in a virtuous way, has not established a clear position on what was to become the main ethical debate in the ancient world: is virtue (necessary and) sufficient for happiness, or merely necessary? This is not surprising, or a reason for condescension. Plato is the first philosopher to give sustained thought to the eudaimonist framework central to ancient Greek thinking; it is not until Aristotle systematizes the idea that we get debates as to the different positions that can be taken on the relation of virtue to happiness, and once this starts it becomes clear how difficult the problems are.<sup>105</sup> In the case of the *Laws*, the Athenian is aware of the material needs that a city will have; indeed the dialogue goes into some of them at great length. But it is also striking how far these needs are subordinated to the greater perceived need for the citizens to live in virtuous ways. Hunting, as we saw, is reconfigured in ways that sharply cut the amount of food it provides. The advantages of sea trade are rejected, because constant mixing with people from other cities will make Magnesians curious about other societies and dissatisfied with their own, and because sea power produces citizens unprepared to develop the kind of courage required in land battles.<sup>106</sup> Defensive walls are deplored (though in the end grudgingly and minimally accepted) because they make citizens forget that the city's safety rests on their own bravery, not on the existence of mere objects.<sup>107</sup>

The more technical passages where Plato discusses the priority of virtue are problematic, leaving the reader unsure whether for Plato virtue is prior in the sense that it is the only good thing, and so sufficient for happiness, or whether it is the condition for anything else's being good, and so contributing to happiness. Both of these theses have footing in the texts. However, it is hard to avoid the impression that Plato's overall attitude is that virtue is sufficient for happiness; this is certainly the way he was read in the later ancient world, where he was taken as a proponent of the sufficiency thesis, as against Aristotle, taken as a proponent of the weaker thesis that happiness requires virtue, but requires some other

<sup>105</sup> For an overview of philosophical discussion of eudaimonist ethical thought after Aristotle, see my (1993).

<sup>106</sup> *Laws* 704b6–705a7.

<sup>107</sup> *Laws* 778d4–779b7.

goods as well, the standard 'external' or worldly goods of health, prosperity, and the like.

We can see Plato's uncompromising attitude at the end of the *Republic*, where Socrates refers back to the challenge made in Book 2. That challenge was to show that the virtuous person is, even in the worst circumstances—ruined, tortured, and slandered—is happier than the vicious person in the best circumstances—prosperous and well thought of. This is weaker than a demand to show that the virtuous person would actually be happy. But when Socrates finally responds to this challenge in Book 9 the answer takes the stronger form. The virtuous person here gives no thought at all to worldly goods in their own right. She will pursue only the studies that foster and sustain virtue, despising others; she will care for her body for the sake only of temperance, not of health or beauty; she will organize her acquisition of money with nothing in mind other than maintaining the orderly virtue within her; and will deal with honours similarly, accepting those that will increase virtue but rejecting any that might put it at risk.<sup>108</sup> The strong thesis we find here can be found in some other dialogues. Socrates, for example, refuses Crito's offer of help to escape from death. This would be doing wrong, he says, and

If it becomes clear that such conduct is unjust, I cannot help thinking that the question whether we are sure to die, or to suffer any other ill-effect for that matter, if we stand our ground . . . ought not to weigh with us at all in comparison with the risk of acting unjustly.<sup>109</sup>

In the *Gorgias* Socrates unflinchingly defends the position that it is better to suffer injustice than to inflict it, and in the *Apology* he claims that a good man cannot be harmed, whatever is done to him, and claims that he is indifferent to the possibly fatal result of his action, considering only whether it is right or not.<sup>110</sup>

Does Plato sustain this in the *Laws*? We have to take the context into account. Unlike the other dialogues just mentioned, the *Laws* is not dealing with the problem of bad things happening to good people, and how we are to think about this. Rather, we have the imagined situation where new citizens are presented with good, indeed excellent situations

<sup>108</sup> *Republic* 591a5–592a4.

<sup>109</sup> *Crito* 48d, Tredennick and Tarrant translation.

<sup>110</sup> *Apology* 28b–d.

and learn to live well in those good situations. It is not central to this project to consider how they would behave if they lost them through no fault of their own. Given this, it is not surprising that we do not find extended discussions where what is at issue is the state of good people in undeserved bad circumstances. We do find the following uncompromising claim, an imagined address by the Athenian to the Guardians of the Laws (*nomophulakes*), telling them what he and his companions have agreed on:

There is one main point in what we agree on. In whatever way a man can become good, keeping in his soul the virtue appropriate to a human being—from whatever occupation, or disposition, or possession, or desire or belief or whatever studies (whether the member of our community is male or female in nature, young or old)—it is towards this end that all their utmost (as we call it) effort shall be directed throughout their entire life. As for whatever other things impede this, nobody at all shall be found preferring them to this—not, finally, even the city, if there turns out to be the necessity of destroying it rather than being willing to undergo the slavish yoke of being ruled by worse people, or of leaving the city as an exile. All such things must be suffered and endured rather than changing to a state (*politeia*, political system) which by its nature makes people worse.<sup>111</sup>

The city should actually be *destroyed* rather than compromise its overall aim of virtue. Plato does not have the technical machinery of the Stoics, but the starkness of this pronouncement makes it understandable that he was later taken to align with the Stoics on the issue of virtue and happiness. After all, the Athenian does not shrink from condemning the sea battles of Salamis and Artemisium for corrupting Greeks, even while admitting that they saved their lives and freedom. Remaining alive and free is not the most important thing, he assumes, if your soul is corrupted.<sup>112</sup>

Virtue, then—the whole of it and not just courage, as we are often reminded—is the overall aim of the law code, and the pursuit or treatment of worldly goods is given its place in a life structured by the pursuit of virtue, which in Magnesia is fostered by the educational system and

<sup>111</sup> *Laws* 770c7–e6. This passage has been read, by Bury, as, ‘even as regards the State, he must allow it to be revolutionized, if it seems necessary, rather than voluntarily submit to the yoke of slavery under the rule of the worse’. I follow Saunders, England, and Schöpsdau in taking *anastaton* here to mean that the state must be physically destroyed, or abandoned, rather than allowed to degenerate in virtue. On the text, which is grammatically awkward, see Schöpsdau on 770e1–3.

<sup>112</sup> *Laws* 707b4–c7.

habituation to obey the laws with understanding. Given that Plato has not clearly worked out in argument the different ways in which the priority of virtue can be understood, and given that he is dealing not with examples where virtue is misunderstood and persecuted, but with a programme dealing with citizens who are both to be virtuous and to have a stable and reliable source of material goods, it is understandable that the treatment of the priority of virtue throughout the work, particularly in the law code, cannot always be neatly put on one or the other side of later, more clearly articulated debates. In the circumstances of the *Laws*, we often find that the Athenian is thinking in terms of the citizens leading good lives as a result of dealing with their lives virtuously, where the conditions of their lives (crops, animals, relations with family and friends) are taken to be good if given the right place in those lives, but to be insufficient on their own to make a life good; the question is just not raised, as we would not expect it to be in the context of how the citizens would deal with drought, disease, and so on. It seems to be assumed that they would deal with these better than people do in the actual world, but it is not spelled out how this would be in the details of the law code, and the programmatic abstract discussions leave us with no one firm position. What is important is that they deal with the circumstances of their lives in ways that, through obedience to the laws, encourage them to develop good character rather than the bad character that develops through disobedience to the laws and hence put the resources of their lives to selfish use. Thus for much of the *Laws* we do not find anything stronger than the idea of health, money, and so on as conditionally good in a good life, although in the more abstract and summarizing passages it is the sufficiency view that is promulgated (though unclearly, as we have seen), and it is this strong view which comes to the fore when questions arise of bad things happening to the good city.

The programmatic sketch of a society run according to the priority of virtue at the 631 passage is filled out by the long speech that the Athenian imagines himself making to the new citizens as a preamble to the law code as a whole.<sup>113</sup>

<sup>113</sup> *Laws* 715e3–718c6 and 726a1–734e2. The first part concerns duties to the gods and to parents, while the second expounds on the ranking of ‘divine’ and human goods mentioned briefly at 631.



This address begins with an earnest appeal to god, who holds ‘the beginning, middle and end of all things’, and is followed by justice, which enforces the ‘divine law’. Happiness is to be found in humbly following god and this divine law, and avoiding arrogance and self-assertion. It is god which is the ‘measure of all things’, so we should try to follow god by becoming like god, which means living in a moderate and orderly way, thus pleasing the gods in our worship of them, since the gods reject worship from evil people. The best beginning for the citizens, then, is orderly worship of the gods (both Olympian and underworld) as well as of ancestral spirits—something which segues into filial piety towards parents (heavily stressed throughout the work).

At this point the Athenian breaks off to explain why preambles are needed for laws, allowing us to reflect that little of this content is really comprehensible by the new citizens to whom it is addressed. Not till much later in the work do we find what god, as opposed to the gods of the city, is, or why the law is divine, or why there is so much stress here on suppressing self-assertion and being moderate and ‘humble’, a term which is standardly used to denigrate.<sup>114</sup> The bulk of the address, however, renewed at the start of Book 5, is a clear and eloquent description of what is to be Magnesia’s way of life. Citizens are to have the complex attitude to laws involved in blending the obedience of slaves with the entitlements of the free, and this enables them to take part in a communal way of life in which virtue, not moneymaking or power or status, is what matters to them and gives their lives meaning.

The address brings home to the citizens the importance of giving virtue priority over worldly goods in their activities by focussing not on the goods themselves but on awareness of living in such a way that virtue has priority in your life; he calls this honouring your soul.<sup>115</sup> The Athenian assumes that we recognize that one aspect of us, the soul, is dominant over the rest of us. He is appealing to the idea that I recognize myself as an agent whose intentions and reflections determine the course of how I live. Here the soul is opposed not simply to the body, with its demands for food, drink, and sex, but to a range of motivations, all of which are related to what he slightly later picks out as the greatest evil and the source of all wrongdoing, namely excessive love of oneself

<sup>114</sup> See Chapter 5, 130–31.

<sup>115</sup> Later, 870a4–c3 restates the hierarchy in terms of goods, as in the first two books.

(*hē sphodra heautou philia*).<sup>116</sup> We are mostly mistaken and ignorant about ourselves, and so loving ourselves is bound to lead to the kind of ignorance which is at the basis of wrong evaluations. We evaluate what is good and bad in relation to ourselves, rather than in the way that virtue demands; a person should love ‘not what is his but what is just, whether what is done turns out to be more on his side or on that of someone else’.<sup>117</sup>

Hence honouring one’s soul involves refraining from a number of ways of acting which are self-aggrandizing, or shirking responsibility, or giving in to pleasures or avoiding pains; worst are valuing life, bodily beauty, or wealth over virtue. Someone who does this is condemning herself to become a wicked person, and finally incurably so. And vice is its own punishment.<sup>118</sup> Honouring the soul is thus living not just a life of virtue, but one in which virtue is the overall aim that structures the person’s life. For example, she will aim, in her attitude to her own body, not to have a body which is fine and strong, swift or tall—not even one which is healthy; rather, the body to be ‘honoured’—the one with its proper place in the life in which the soul is honoured and virtue is prior—is the body in the mean between beauty and ugliness, strength and weakness, health and unhealthiness. Aiming for a beautiful, strong body makes people emptily proud; being satisfied with a weak, sick body makes them humble and abject. Citizens of Magnesia will neither neglect nor focus on their bodies, but will keep them serviceable for the lives they lead.<sup>119</sup> We are reminded of the virtuous person in *Republic* 9, whose aim for his body is not health, or making it a priority for it to be strong or healthy or beautiful—not unless this will produce temperance; he will make harmony in the body align with the harmony of the soul.<sup>120</sup> Magnesians are also to develop, like Kallipolitans, a character which blends vigour with gentleness. There is a large difference, however; the main virtue that Magnesians are urged to develop is temperance or

<sup>116</sup> This is said to be ‘innate in the soul’ (731d6–7), underlining the point that we do not here have a clear distinction in moral psychology between the soul and the body, but a distinction more like that between a higher and lower self.

<sup>117</sup> *Laws* 732a 2–4. ‘On his side’ translates *para*.

<sup>118</sup> This will be repeated in the cosmology of Book 10; there is no appeal in the serious cosmology of the *Laws* to the kind of afterlife cycle of rewards and punishments that we find in the *Republic*. Personal afterlife figures only in popular myths which are useful for deterring people from violence.

<sup>119</sup> *Laws* 728d3–729a2.

<sup>120</sup> *Republic* 591c5–d2.

moderation (*sôphrosunē*), rather than justice.<sup>121</sup> And the Athenian, at the end of the address, restates the demands of virtue in terms of pleasure; the virtuous life, he reassures the new citizens, will in fact turn out to be the most pleasant, because it is the moderate life which will be overall the happiest, rather than the unstable life of intense pleasures.

This great preamble to the law code makes it clear that the law code itself will structure and organize the citizens' lives in ways which will habituate them to virtuous activities, rather than to activities whose aim is military glory, or money. It is not surprising, then, that it is already clear that in many areas of life the law code restructures activities to make them distinctively different from their analogues in ordinary Greek cities. Hunting, as we have seen, has been restructured to exclude many means of killing animals which were seen as a normal part of Greek hunting; in Magnesia hunting must develop only courage and intelligent risk taking, and exclude mere provision of meat and fish where this involves no risk or effort. Shopping has been reconfigured to exclude bargaining and calling the gods to witness one's honesty. These are both drastic modifications of parts of citizen life. Magnesia has no substantial city wall, to discourage cowardly confidence on a mere thing to defend the city, as opposed to the citizens' courage. It has no port or navy, because these are sources of habits that undermine citizens' virtues. Citizens do not own their plots of land outright and may not leave their wealth as they choose in their wills. Young married couples who do not produce children have to have counselling from state officials to resolve their problems. The list goes on and on. The preambles point the citizens to the ideals they will achieve by living their ordinary, often mundane citizen lives virtuously, rather than in more familiar ways in which citizens of other Greek cities prioritize money, or efficiency, or status.

The most striking example is provided by the sexual regulations.<sup>122</sup> This is another way, like the ones already described, where an activity current in Plato's culture is radically repurposed to have virtue as its aim, but it is worth special consideration because of the radical extent to which people's desires are to be reshaped. In Magnesia currently accepted forms of sexual behaviour are totally rejected, and the nature of what sexual behaviour is acceptable is completely rethought. In the

<sup>121</sup> This will be followed up in Chapter 6.

<sup>122</sup> These go from *Laws* 835b5–842a10.

cultures of all three of the old men specific forms of homosexual (and sometimes man–boy) practices were not just accepted but taken completely for granted. In Magnesia things are utterly different. The only approved form of sex is heterosexual sex within marriage, though heterosexual sex outside of marriage is given a ‘don’t ask, don’t tell’ status; it’s the male citizen’s duty to keep it private, and he is excluded from civic honours if he fails to do this. There is no place for courtesans, women who relied on their male sexual partners for support but kept their own households (often more intellectually interesting places for men than their homes); there is thus no institutionalized competition for their husbands in the lives of wives. Homosexual sex is forbidden entirely.<sup>123</sup> These regulations are extraordinary for their historical context, and the Athenian is aware that they will strike most people as entirely unrealistic; he relies on a changed culture to sanction them eventually.

Why would Plato have the Athenian be so extreme on this issue? In particular, the total ban on homosexual sex, and the claim that it is against nature, has astonished many readers of the *Symposium* and *Phaedrus*. The *Laws* context is quite different, however. The Athenian is talking to two people in whose societies homosexual relations, particularly of the man–boy kind, were common because of the militarized form of their education, which kept young men away from women and valued close male relationships. In Crete sexual forms of these relationships were more openly accepted than in Sparta, so Megillus is readily persuaded while Cleinias’ persuasion is put off to another day.<sup>124</sup> The Athenian is thinking of sexual relations in the context of the good of society as a whole, rather than that of love, or intellectual benefit to the lovers. Magnesia is a city where the citizens are farmers living in nuclear families, so that it is important to foster emotional ties within the family. (The immense stress on filial piety throughout the work makes the parents the focus of the family.) Families are to meet with other families at the frequent religious festivals, and individuals will deal with one

<sup>123</sup> Despite the anachronism of the term ‘homosexual’, it seems the least awkward to cover what Plato is talking about. It is male–male sex that is his target, because of its social role; he has nothing to say about female–female relationships, perhaps because they would not be socially visible (though here again he would be reverting to conventional views of the spheres of activity of men and women, and forgetting that in Magnesia women have public lives too).

<sup>124</sup> See Chapter 3, note 35.

another in the course of administering the city's matters. The citizens have no need for groups functioning at a level between the family and the city, especially since homosocial group bonding will bring male citizens together in ways that divert emotional energy from the family and farm on the one hand, and the whole city on the other. It is fairly easy to see why there will be no such homosocial groups in Magnesia. (This makes it all the more anomalous, incidentally, that the Athenian has argued for the educational value of the Athenian homosocial *symposium*. Its social functions have been taken over by the common meals, and its sexual function is completely rejected.)

This does not, however, wholly explain why Plato has the Athenian declare that male homosexual sex is to be banned as 'against nature'. It is explicitly said to be against nature because non-procreative, 'sowing seed on rocks and stones';<sup>125</sup> a longer argument is that it is against the city's overall aim of virtue, since the seducer is weak-willed through giving in to pleasure, and the seduced is 'imitating the female' and thus becoming cowardly.<sup>126</sup> These passages suggest that Plato has the Athenian appeal to conventional views that consider non-procreative sex, and actions that blur strictly gender-differentiated roles, somehow 'unnatural', without analysis of what is 'natural' in this context.<sup>127</sup> We can see these attitudes in ugly form in Aristophanes' portrayal of the dramatist Agathon, who lived with his male lover Pausanias, as effeminate and ridiculous.<sup>128</sup> This endorsement of popular attitudes leaves Plato's own view about sex in actual societies unstated here, so it would be misguided to look for a personal change between earlier dialogues and the *Laws*; we have no access to such a change or to its absence. It is clearly important to him to have the Athenian regulate sex strictly, since it is the motivation which is most likely to lead people to lose self-control and act against the demands of virtue, and so a city that allows it free rein is likely to be rendered unstable. Notoriously, the Athenian thinks that people will

<sup>125</sup> *Laws* 838e4–839b3.

<sup>126</sup> *Laws* 836c7–e5.

<sup>127</sup> The Athenian appeals to the behaviour of non-human animals, which he believes do not indulge in non-procreative sex (*Laws* 836b8–c7, 840d2–e2). The homosexual, particularly man–boy sex, encouraged by *gymnasia* in Sparta and Crete, was said to be 'unnatural' already in Book 1 (636b4–e3).

<sup>128</sup> In *Women at the Thesmophoria* Agathon is presented on stage wearing women's clothes, and he was similarly ridiculed in a lost play *Gerytades* (Fragment 178). Aristophanes is pandering to popular prejudices; in Plato's *Symposium* Ariston and Aristophanes are presented as cultivated friends.

cease to have desires for homosexual sex if it is always presented in the culture as wrong and the thought of it repellent, as is the case with incestuous sex. Further, desire for any sex will be reduced if sex is regarded as something to be ashamed of indulging in, and to be done only in a private, furtive manner. Once this new ideology is in place, he thinks that it is simply a matter of self-control to get people to refrain from any but married, reproductive sex. Readers have constantly been surprised by Plato's optimism about the plasticity of human nature here, analogous to his assumption that once people get the point that sleep is a waste of useful time they will sleep less. There is a deep irony in Plato's requiring people, in the most historically and experientially informed of his works, to have these attitudes to same-sex relationships, attitudes that we know from a long history when they were in fact enforced, do not (to put it mildly) produce his desired result.

The law code as a whole fills out, in more or less revisionary ways, the programme of the great preamble, which introduces two ideas: law will in Magnesia work in a 'double' way, by persuasion as well as by force, and it will be focussed throughout on educating and forming citizens to live lives in which virtue has priority as their aim; money, status, and sex are among the things which will now have radically different places in their lives. This idea was introduced in a programmatic way twice in the first two books, and the *Laws* as a whole works it out. We can now see that Plato has not retreated from the idea that the ideal city would be one where the citizens live happy lives because they live virtuously. Obeying the laws, even strictly, does not turn them into mere rule followers, because living in ways structured by these laws with their preambles educates them in a way that enables them to understand that the ways of life the laws structure are good, encouraging them to become virtuous people.

## Law and Feasibility

Chapter 2 laid out a problem for the *Republic's* Kallipolis. It is to be so radically and utterly different in structure and institutions from any actual society that there is no way it can be achieved by modifying an existing society; what is needed is a completely clean slate. But to set up Kallipolis we need nothing short of people who have been educated in Kallipolis, under its laws; anything short of this would produce a disaster.

There is no way to progress from here to there. It is clear by now that in the *Laws* Plato's new approach breaks into this circle: the laws come first, and then citizens are educated to live according to them. This is why he can use a familiar model of a newly founded city with incoming citizens; the model shows how people can be educated by the laws of their city and culture to live a better and so happier life than the one they led under their former laws.<sup>129</sup> This is of course not a blueprint for an actual city founding, something Plato mentions occasionally as a 'third city' to bear in mind, but never focusses on.<sup>130</sup> Rather, it is a way of showing that the ideally good city, where people are happy, is the end of the kind of process we understand.

The circle can be broken into when the laws come first, but not, of course, just any laws. The laws of Crete and Sparta are a starting point because they structure the right kind of society, but as they stand they are no basis for a virtuous life. The laws that allow us to break into the circle are the right laws, those that will frame a virtuous way of life. Here it is important that the *Laws* is not itself a blueprint. The law code must be got right before there is any question of actually founding a new city, and the *Laws*, like the *Republic*, is an example of the right method, of how it should be done, rather than a recipe waiting for ingredients. Here there are two issues where we can see some tension not resolved in the work itself. One is the problem of first producing a completed law code needing only subsequent fine tuning, rather than a model allowing more adjustment and 'boot strapping' in application to the actual world. The introduction of the work might have led us to expect a model in which laws are introduced and improved through experience; but Plato cannot tolerate the idea of laws as an ongoing project. However, the more stress is put on the need for a complete law code before the city starts, the more strain is put on the idea of learning from history and experience, as though everything worth learning from them could be attained before any practical application. The other issue is that of the 'resignation' that many have found in the *Laws*, where this is generally understood as a reduced confidence in the capacities of human nature. It is clear throughout the development of the laws that Plato presupposes

<sup>129</sup> *Laws* 752 b9–c8.

<sup>130</sup> *Laws* 739e3–6. See Schöpsdau's note (vol 2 308–12 for the range of interpretations of the 'third city'.

confidence that Magnesia's law code will produce virtuous people whose virtue once inculcated will be self-sustaining, but that this coexists with some large concessions to the hopelessness of human nature—for example, the need to appeal to pleasure and not just to the attractions of virtue, and the need to have the lottery play some part in selection for political office to let people think that they are all as good as one another at running the state, where this is not the case (as it never is for Plato).

The relation between virtue and law is more sophisticated in the *Laws* than in the *Republic*, where it was taken for granted. Now laws educate people as they grow up, producing virtuous people whose virtuous way of life is underpinned by the laws. Explicit thoughts about obeying the laws are not needed for citizens once they have been successfully so educated; they are needed for those whose education has been unsuccessful, as well as for the inhabitants of Magnesia who are not citizens (resident foreigners and slaves). There is more to be said about the basis of the laws, and how much the citizens understand as to *why* their laws are ideally good laws, in everyone's interests. I will return to this in Chapter 5, and then go on to some implications of the revisionary aspects of Plato's ideal citizen virtue.

In the *Laws* worry about feasibility—how we could even start the process that would lead to the good state—has lessened considerably. The Athenian does briefly consider unlikely scenarios, such as a virtuous tyrant guided by a philosopher, but this is just an idea about how the process could get going, not something needed to explain how the city could continue to function. Plato insisted that Kallipolis was compatible with human nature, and so not an ideal dream, but few have thought that people could actually be anything like the guardians in Kallipolis. But we know what laws are, and Plato's audience was familiar with the kinds of political and cultural differences between cities like Sparta and cities like Athens. And we are familiar with the fact that at least sometimes conservative people, unable to understand philosophical principles, can be persuaded to enlarge the horizons of their own culture by thinking critically about, and rethinking, its fundamental aims.



## 5

# Law and the Divine

Magnesia is a society in whose organization virtue is always to be prior, in ways set out in Chapter 4. The enlargement of the city's aim has been introduced in ways respecting Megillus' and Cleinias' culture and their conservative temperament; but the priority of virtue as a whole, as opposed to military excellence, has resulted in great changes in citizen life and activity, striking from a Spartan and Cretan point of view as well as from an Athenian one. Cleinias notices this, but makes no objection.<sup>1</sup> Life in Magnesia will not be as unimaginably different from ordinary Greek life as would be life in Kallipolis, but it will still be extremely different. In the introductory books, and the address to the new citizens, the Athenian claimed that the new way of life will be found more pleasant than any alternative, but as the dialogue proceeds we see unfolding the content of the Athenian's claim that pleasure is appreciated only from the correct point of view, which is that of the virtuous and virtue-promoting lawgiver, and which the good citizen will, as a result of his or her education, come to occupy.<sup>2</sup>

This greatly reconfigured way of life and transformed perspective on values and priorities is to result from the settlers being educated as Magnesians citizens, and so with the right attitude to their laws. A natural question to ask at this point is: What is the basis of these laws that makes them so superior to the laws they replace that they can produce virtuous citizens? This question needs to be explored before we can properly understand the significance for virtue and happiness of the restructured priorities of Magnesian life.

As we have seen, the law code is not to be read off from the text of the *Laws*, any more than Kallipolis from the text of the *Republic*. Further, the

<sup>1</sup> *Laws* 805b3–4.

<sup>2</sup> *Laws* 663b6–c5.

*Laws* is a dialogue, not a treatise, and Plato is not ventriloquizing through the Athenian but achieving his result through the cooperation of all the companions; distinct political and social systems are being drawn on. The *Laws* lacks the attraction of characters with depth and of dialectical conversation, but it is still a dialogue, produced by Plato not as written from authority but as a dialogue like others, putting forward ideas in a framework which presents them for acceptance on the basis of the reader's own engagement and, he hopes, assent.<sup>3</sup> As in the case of the *Republic*, the length and bulk of the work discourage continuous dialectical engagement as the reader goes along, but the formal framework reminds us that Magnesia is like Kallipolis: it is a sketch of what an ideal society would be like, not an actual example. That would be the 'third city' that the Athenian refers to from time to time.<sup>4</sup>

Since in Magnesia virtue in the citizens is to be produced in a way which essentially involves informed obedience to the law, the issue arises: what is the nature of the law? So far we appear to have had more than one answer. We have seen that law is public reason, embodied in a directive form in public institutions and sanctions. When we align our own reasons with it, it enables us to order our otherwise undisciplined desires in a rational way.<sup>5</sup> As we already saw in the *Republic*, law is identified with the reasoning of the individual when this joins the citizens together in the common good.<sup>6</sup> In the puppet passage in Book 1 of the *Laws* we are said to have within us two stupid and antagonistic advisors, pleasure and pain, but we manage to do better when instead of being jerked around by these we cooperate with the golden string of reasoning (*logismos*), which is called law (*nomos*) when it becomes the common decree of the city. Thus, we are told, when we wish a man to be fearless with respect to many kinds of fears, we render him such by exposing him to fears with the help of the law.<sup>7</sup> Again echoing the *Republic's* discussion of education, law is connected to the workings of *paideia*, which pulls towards the *logos*, rational account, stated to be best by the law.<sup>8</sup> We have

<sup>3</sup> See Bobonich (1996) and Gill (1996); my view of the philosophical importance of the dialogue form is more expansive than theirs.

<sup>4</sup> See Chapter 3, note 66.

<sup>5</sup> See Chapter 4, 74–6.

<sup>6</sup> *Republic* 590c7–e2.

<sup>7</sup> *Laws* 647c3–5, as well as the puppet passage.

<sup>8</sup> *Laws* 659c9–660a8. This is confirmed as correct by the experience of the wisest and oldest; hence children are to be habituated to feel the same pleasures and pains (in music and dance) as the old.

also had some glimpses of the further view that law is divine. We have had mention of the divine lawgivers of Cretan and Spartan law, the spirits of the age of Cronus, and claim that service to the laws is service to the gods, and an even more striking claim, in the preamble to the marriage laws, that we should produce children as servants for god in our place—an unfamiliar way of putting the point, familiar in Plato's society, that law-abiding citizens should have offspring to be future law-abiding citizens.<sup>9</sup> What we need is some way of seeing how these different answers can be integrated into a unified account of law.

Plato gives us this in Book 10, in which previous hints are filled out, as the Athenian presents a cosmology which shows us the place of reason in the cosmos and its relation to civic virtue and to law. This comes in the context of the need for a law against impiety; the arguments which make up most of Book 10 are aimed at people with mistaken views about the gods. To find the basis of true law, as opposed to the actual political compromise law of ordinary states, it emerges that we need to understand the religion of Magnesia and the way it is defended to citizens with wrong views about it. Cleinias prefaces the arguments with, 'It makes no little difference for there to be some sort of convincingness to our arguments that the gods exist and are good, honouring justice more than humans do—for this would be just about our finest and best preamble on behalf of all the laws.'<sup>10</sup> Getting the existence and nature of the gods right is crucial to understanding what Magnesians take as the basis for law in their city.

## Religion in Magnesia

At the start of Book 10 we find, perhaps to our surprise, that Magnesia needs a law against impiety. This is because even in Magnesia we find people with dangerously mistaken views about the gods. In a recapitulation in Book 12 they are described as follows:

Nowadays some people, as we said, don't hold that there are gods at all, some think that they have no concern for us and the majority, who are the worst, believe that if they receive small offerings and flatteries they will help them to steal large sums of money and get them off heavy penalties for many things.<sup>11</sup>

<sup>9</sup> For children as servants of god see *Laws* 773e5–774a1.

<sup>10</sup> *Laws* 887b5–c2.

<sup>11</sup> *Laws* 948c2–7.

These three kinds of offenders, whom I will call the atheist, the rationalist, and the traditional polytheist, do not seem to have much in common (other than being young, and so lacking the wisdom of the old). 'Atheists' denying the existence of the gods are rare in Greek culture, whereas the final, and apparently worst, mistaken view of the gods seems to be the normal Greek attitude to the gods embodied in sacrifice and prayer: *do ut des*; you give the gods the worship and symbolic gifts that they desire and they will support your endeavour. The Athenian later specifies some differences between these groups. He says to the young atheist<sup>12</sup> that nobody who denies the existence of the gods when young has ever kept this up into old age. Atheism is a kind of youthful intellectual bravado; he pictures the young atheist openly deriding sacrifices and oaths and trying to persuade others.<sup>13</sup> The other two kinds of people, however, can keep up their views all through their lives; they go wrong because of *failing* to do something, and this failure can persist. The rationalist, who accepts the existence of the gods but thinks that they do not care for humans, is making an intellectual mistake, failing to draw the consequences of what he believes. The traditional polytheist, who continues to accept the intellectual implications of traditional religious practice, is failing to understand Magnesian religion.<sup>14</sup> It is the atheist who requires the long argument, with the other two met by drawing out implications of it. Argument is needed because, once this kind of worry is raised, it can't be met by force and sanctions alone; intellectual problems have to be satisfied by intellectual answers.<sup>15</sup> The Athenian's two companions, pious and non-intellectual people who have never had these worries, clearly do not follow the argument, though, in keeping with the need for the laws to come from their agreement with him, they agree that argument is needed. This is a point where the Athenian explicitly goes beyond what can be understood by his two companions; since they have hitherto stood in for ordinary members of Spartan and Cretan societies this is an indication that the argument and

<sup>12</sup> *Laws* 888b4–c7.

<sup>13</sup> *Laws* 908c7–d1.

<sup>14</sup> I call the positions 'atheism', 'rationalism', and 'traditional polytheism'. Atheism is straightforward. Mayhew (2008) labels the second view 'Deism', but I think that this is tied too closely to specific eighteenth-century views. He labels the third 'Traditional Theism'; it will be clear from my account why I think this can be misleading.

<sup>15</sup> *Laws* 885c5–e6, 886e6–887c4. See Chapter 4, 93–4.

its implications will be understood by only some people in Magnesia, as indeed we will find.

Why are there offenders at all? The only answer that the Athenian gives to this is that corrupt ideas have come into Magnesia somehow; it will turn out that there are some which remain over from the initial backgrounds of the settlers. These ideas cause some people (mostly when young) to get Magnesian religion wrong. Clearly, before we can see how they go wrong we need to see the outlines of Magnesian religion.<sup>16</sup>

The forms of popular religion in Magnesia are those of ordinary civic religion in Greek cities of Plato's time. However radical the political and cultural changes in Magnesia, the Athenian insists that the law code will not dare to tamper with traditional religious forms confirmed by Apollo at Delphi. Indeed, we find the same appeal to Delphi in the even more politically radical Kallipolis of the *Republic*.<sup>17</sup> Temples, the appointment of priests and priestesses, and the forms of ritual and cult are all to be kept sacrosanct.<sup>18</sup> This is quite noteworthy. For Plato, the forms that religion has taken in human history are not to be radically overturned or modified in the ways he unhesitatingly applies to political and cultural structures. Forms of religion, for Plato, seem to be rooted deeper in human nature than social or political forms of association; even in the *Republic*, where he changes political structures completely, he does not meddle with established aspects of religion such as sacrifices and authoritative oracles. Given this degree of apparent commitment to religious conservatism it is no surprise that the Athenian is irritated by the rejection of their religious background by the youthful atheist in particular; this is a rebellion deeper than rebellion against social or political conventions.<sup>19</sup>

Popular religion in Magnesia is rather different from popular religion in other cities, however, despite the deference to Delphi on religious forms and rituals. For a start, it is considerably 'cleaned up' on ethical grounds, in much the same way as was prescribed for Kallipolis. Myths about the gods which represent them as no better than humans (indeed,

<sup>16</sup> We should thus be cautious about treating the arguments in Book 10 as though they were directed against views current in Plato's Athens.

<sup>17</sup> *Republic* 427b1–c5; *Laws* 738b5–e2, 828a1–5. Cf. 759c6–d1, 914a2–5.

<sup>18</sup> Morrow (1993) chapter VIII, especially the section on 'The Gods and Their Worship', usefully fills out the details of traditional worship retained in Magnesia.

<sup>19</sup> *Laws* 887c7–888aa2.

entertainingly worse) are banned. There are no dramatic festivals; drama of the sort put on in Athens is explicitly rejected, on the grounds that it gives a false picture of what is valuable in human life; it is the city itself which is to be the 'true drama' of life for its citizens.<sup>20</sup> There will therefore be no theatrical performances in which the gods are presented as they are in Athenian tragedy, where they figure as arbitrary, unmoved by human suffering and sometimes even prone to petty emotions like spite. Comedy is to be allowed, presumably because it plays a role in amusing the citizens.<sup>21</sup> There is to be no personal abuse, and this is explicitly applied to comedy: it will contain none of the personal insults so central to Old Comedy. Comedy is to entertain, but not in a nasty and divisive way.<sup>22</sup> Although it is not explicitly mentioned, it seems unlikely that the gods will figure in Magnesian comedy in the undignified and slapstick way that they do in Aristophanes.

It is in the context of the religious festivals that the role of words in music and dance is developed. These are to be cheerful occasions, where people enjoy their respite from work by having their spirits uplifted. The songs and dances that the citizens are trained to perform give a positive view of the gods and are to be upbeat. Gloomy and melodramatic music is to be banned from the gods' rituals. The Athenian indignantly describes a sacrifice accompanied by an emotionally compelling tragic song which makes the audience weep, and he compares this to blaspheming at a sacrifice with unlucky words.<sup>23</sup> Performances which might be depressing are to be limited to unlucky days and funerals; even then citizens cannot perform in them, and the costumes are not to be the garlands and clothes appropriate to festivals.<sup>24</sup> The underworld gods, who are to be honoured in a month of their own and not along with the Olympian gods, are to be venerated in ways that present them as beneficial and not fearsome.<sup>25</sup>

The festivals themselves take the place of dramatic and oratorical performances as the main places where citizens socialize, and they are to be even more frequent than they were in Athens; there is to be one every day somewhere in Magnesia.<sup>26</sup> Religious ritual and cult is to be an

<sup>20</sup> On this passage see Meyer (2011) and Chapter 3, 89–90.

<sup>21</sup> *Laws* 816d3–817a1.

<sup>22</sup> The law against personal abuse, elsewhere and in comedy, is at 934c7–936b2.

<sup>23</sup> *Laws* 800b5–801a4.

<sup>24</sup> *Laws* 800b4–801a2.

<sup>25</sup> *Laws* 828c6–d5.

<sup>26</sup> *Laws* 828a7–b3. The 'Old Oligarch' comments unfavourably on the large number of festivals at Athens (chapters II 9–10, III 2, 4, 8), but these fall far short of one every day.

essential social affair, replacing much of the role of the dramatic, oratorical, and political performances in Athens and other cities. The role of religion is thoroughly socialized: rituals are to be public, at the public temples only, and are not to form private relationships between an individual citizen and a god. The dances and songs at the festivals are choral; citizens learn to perform with others, not to stand out or to compete in solo performances. (One point of this is to render the citizens less competitive and agonistic.)

This stress on the social side of religion and worship extends to banishing or minimizing many of the ways citizens in Athens and elsewhere worshipped the gods. In the concluding law against impiety the Athenian bans private and household shrines. This is because he sees them as a temptation to 'privatize' a citizen's relation to the divine.<sup>27</sup> Some have found a tension here between this ban, at the end of Book 10, and the earlier point, stressed in the Athenian's address to the settlers, that honour should be paid to the Olympians and the underworld gods, the *daimones*, and heroes and then 'private shrines set up according to the laws to family (or ancestral) gods, and then honours to living parents'.<sup>28</sup> Private shrines are also mentioned as sacred at the beginning of Book 10 itself; theft from them is second in seriousness only to theft from public shrines.<sup>29</sup> For Plato, however, there is an important distinction between old-established family shrines, worship at which strengthens the family link between the generations that he insists on so strongly, and shrines which are private in a stronger sense, meant to *establish* some special connection between a god and an individual or his family. The latter, not the former, is objectionable.

Further, the role and the status of ritual offerings is to be drastically cut down. In a passage in Book 12 the Athenian declares that no pieces of land are to be consecrated to the gods (since they are already sacred to all the gods). There are to be no gold and silver offerings in the temples, since these encourage jealousy; nor are offerings to be of ivory, since this is taken from a dead body and is therefore ritually unclean in a temple,<sup>30</sup> nor of bronze or iron, since these are used in war. All offerings in precious and long-lasting materials are thus ruled out. An offering can

<sup>27</sup> Laws 909d3–910e4.

<sup>28</sup> Laws 717a6–b6.

<sup>29</sup> Laws 884a 884a1–885a2.

<sup>30</sup> Laws. 956a1–2. Within the whole *temenos* or sacred area marked off around a temple, birth or death was highly polluting and avoided as much as possible.

be made from a single piece of wood or stone, or a piece of undyed cloth which takes no more than a month to produce. The recommended offerings are birds, and pictures which take no more than a day to paint.<sup>31</sup> This is a drastic revision of the practice of giving offerings; they are to be cheap, easily produced, and (apart from the stone offerings) impermanent. Animal sacrifice is also to be scaled down for private offerings.<sup>32</sup> The Athenian is completely getting rid of the practice of costly and elaborate offerings which serve to advertise the status and wealth of the giver and his or her family, and therefore draw not only the giver's attention, but the attention of other citizens, towards the grandeur and generosity of the giver, and away from the gods as suppliers of good things to all the citizens alike. (One result of this is a slight awkwardness: temple robbing is regarded with if anything more than the usual Greek horror, and citizens who do it are executed as hopeless cases;<sup>33</sup> but given these limitations on offerings to the gods it does not appear that Magnesian temples will contain anything worth stealing.)

In keeping with this, the scale and expense of funerals are also to be greatly reduced. This is partly because citizens are not to pay a lot of attention to a mere dead body once the soul, the real person, has gone from it. Partly, however, it is to avoid having the use of an occasion with religious rites become an occasion for family showing-off. As with the prohibition of private shrines, graves are not to take usable land out of use, and the size of graves, stone markers, and inscriptions is strictly limited. (A stone marker can be only of sufficient size to hold four hexameter lines extolling the departed.) Funeral processions are to take place at night, with no public mourning or dirges in the streets. The Athenian respects established religious rites, but we cannot miss his strong desire to scale down every aspect of expense and show in private mourning and burial.<sup>34</sup> In contrast, the mourning for important public officials like the Auditors is public and extensive, though again the Athenian makes the occasion cheerful rather than depressing or maudlin.<sup>35</sup>

<sup>31</sup> *Laws* 955e5–956b3.

<sup>32</sup> There is no indication that larger animals are to be replaced by birds at the *public* sacrifices, and indeed this would destroy their character as public feasts.

<sup>33</sup> *Laws* 853e10–855b5.

<sup>34</sup> *Laws* 958c7–960c1.

<sup>35</sup> *Laws* (947b2–e6). The Athenian even demands that priests and priestesses should attend, something which would normally, involving contact with the dead, ritually defile them; he does, however, make this conditional on approval from Delphi (947d2–5).



Cicero takes up these passages about offerings and funerals, with similar intent.<sup>36</sup> Like Plato, he would like to make religion more social and less an area in which individuals and families can compete for attention, especially in ways that suggest that they have a special relation with or claim on the gods.

More than once the Athenian refers to the festivals, and the civic performances in song and dance at them, as relating the citizens to the divine. The gods, says the Athenian, gave us festivals as respites or holidays from human toil, out of pity for overburdened humans, so that we may be refreshed by joining with the gods in our feasts, especially the gods of song and dance. This is in the context in which song and dance are said to be developments of our natural tendency to develop order in the sounds and movements we make.<sup>37</sup> The discussions of the festivals make clear that, despite their obvious socially useful roles (as socially sanctioned places for young people to meet potential spouses, for example<sup>38</sup>) they are not just entertainment; they are to be the focus of our thoughts about the gods, and the gods are to be thought of as essentially good benefactors to the city, not as personal protectors (still less enemies) of individuals. Our relation to the gods is to follow them, and we follow them, and become dear to them, by becoming like them—where this means becoming moderate and unaggressive in character, living in an even and temperate way. Religious ritual is conducive to living happily for good people, but the opposite for the wicked.<sup>39</sup>

There is, then, considerable ground for Morrow's suggestion that,

[I]nto . . . time-honored ritual [Plato] intends to infuse a deeper conception of the meaning of worship, not as an exchange of services between gods and men [sic], but as fellowship in which the human worshipper models himself after the divinity he worships. In becoming like God the worshipper is rendering his greatest homage . . . [and] he is also enjoying the greatest benefit the gods can confer.<sup>40</sup>

Even at the level of popular religion, then, Plato thinks that citizens of Magnesia will not have the same conception of what they are doing when

<sup>36</sup> *De Legibus* Book 2, 45, which paraphrases *Laws* 955e5–956b3; 54–68, about funerals, concludes with a paraphrase of *Laws* 958c7–960c1.

<sup>37</sup> A long passage begins at 653a. See Kamtekar (2010); see Chapter 5, 88.

<sup>38</sup> *Laws* 738c7–e8, 771a5–772b5.

<sup>39</sup> *Laws* 715e7–717a2. This is established early on, at 665c2–7.

<sup>40</sup> Morrow (1993) 469.

worshipping as do other Greeks. They will not think in terms of exchange of services, or of being able to do services for the gods, ideas fundamental to most Greek civic religion. Their attitude to the gods will be more enlightened than those of citizens of other cities, and will focus on thinking of the gods as divine exemplars of beneficence and goodness. It is significant that we get a preview of this attitude at the beginning of the Athenian's speech to the settlers in Book 4.

God, the Athenian begins there, holds the middle and beginning and end—a reference, apparently, to an early Orphic verse about Zeus. But the god that the Athenian then describes is not at all like the traditional Zeus, an authoritarian and often arbitrary ruler. Rather god is described as immortal and circling in accordance with its nature, a cosmic god in fact. The settlers are presumed to understand, not immediately but when educated in Magnesia, that the authority of Zeus is properly to be understood in cosmic rather than in merely human terms.<sup>41</sup> The citizens are at once told that they should 'follow' god by becoming like god, and this is to be achieved by temperate living, the opposite of the self-centred and self-asserting behaviour of the wicked, which alienates them from god. Further, the wicked man's sacrifices and prayers to the gods, they are told, do them no good, while those of the good and pious are most appropriate.<sup>42</sup>

It is not clear to the settlers, or to Plato's audience, at this point just why the gods accept the worship of the moderate but not the self-assertive, but by Book 10 we have followed the citizens of Magnesia through enough of their education to draw the connection. The gods of Magnesia are not the gods of other cities, which receive gifts and bestow prosperity in ways that may be related to local pride rather than virtue. Magnesians worship, through the festivals, sacrifices, choruses, and prayers, will produce the right attitude to the divine in citizens who live temperately. The self-assertive will not acquire this attitude, and so will not become like god in living in an orderly way. The sacrifices and offerings are the vehicles by means of which the right attitude, which brings citizens to become like god, is produced. Magnesians who have benefitted from their education will not retain the traditional idea that a particular god will help them regardless of the attitude they bring to

<sup>41</sup> Cf. Bordt (2013).

<sup>42</sup> *Laws* 715e7–717a2.

worship, just because of an offering or sacrifice. Retaining this idea shows a failure to have understood that god is what makes the world work in regular ways which are always good and beneficial. Sacrifices made by someone who has retained the traditional *do ut des* idea will do them no good, because this expresses a fundamentally mistaken view of god, and this stands in the way of the one thing that could really benefit him, namely ethical progress; *that* would make them more like god.

There is a further aspect of humans' relation to the gods brought out in the *Laws* which is even further from traditional conceptions of god. It comes out in Book 7, where the Athenian says that we should pay attention only to what is serious, and that god is the only object worthy of serious attention. Humans are formed to be god's toys,<sup>43</sup> and that is what their best part really is. Every man and woman should go through life in this way, 'playing at the noblest of games'. People are wrong to think that it is war and effort that are serious: what is really serious is the way we play for the gods in sacrificing, singing, and dancing for them, and doing well in war is just an effect of that, and so not really serious. This is why we should put effort into planning the right kind of songs and dances to mould the citizens' characters, 'even though they are for the most part toy puppets, with a small share of truth'. When Megillus is disturbed by this low opinion of humans, the Athenian apologizes, saying that his mind had been on god.<sup>44</sup>

We are, then, so puny and insignificant in relation to god that there is no way that we can be of any *use* to the divine; at best we can be a pleasant entertainment. We should feel *awe* when we think of god, an awe that reveals to us just how insignificant we humans are. This is brought out in the Athenian's address to the settlers, where the badness of self-assertion and selfishness is heavily stressed, and the right way to follow and try to be like god is to be 'humble and orderly'.<sup>45</sup> The word translated 'humble', here, is *tapeinos*, which is striking, given that to Greeks the term *tapeinos* was an insult, indicating spinelessness and grovelling. In the *Laws* the Athenian himself uses the word in this sense in two other passages, as an undesirable extreme of spiritlessness.<sup>46</sup> He is aware that he is suggesting that the citizens' relation towards god

<sup>43</sup> The word is *paigion*. In the earlier puppet passage the Athenian suggests that for all we know we may be the gods' *paigion* (644d8–9) or something more serious.

<sup>44</sup> *Laws* 803c2–804c1.

<sup>45</sup> *Laws* 716a4.

<sup>46</sup> *Laws* 728d1–5, 791d5–9.

should be a profound renunciation of self-assertion and pride, which would be spiritless grovelling if exercised towards another human.

This is an idea which is foreign to ordinary Greek religious thought, which stresses that we should respect the gods and avoid any kind of insult or arrogance towards them, but does not see this as expressing the attitude of thinking of oneself as puny and useless in relation to them. In this Plato diverged from the mainstream of Greek thought, and this aspect of the *Laws* was not taken up until later writers in the Judaeo-Christian tradition recognized in it something akin to their own idea of the profundity of the gulf between divine and human.

It is of interest that later Christian writers pointed to these passages in the *Laws* to claim that Plato derived his ideas from Scripture. The early Christian philosopher Clement of Alexandria quotes the passage about humility to show that Plato had the same idea as the scriptural, 'Everyone who humbles himself shall be exalted.'<sup>47</sup> Clement adds that in quoting this as popular, rather than philosophical, wisdom Plato shows that the teaching comes to him from Mosaic Law.<sup>48</sup> Clement is joining in the late ancient competition to belong to the earlier and thus, it is assumed, the more authoritative, tradition. Later, the pagan Celsus responds that the pagan tradition is in fact the earlier, charging that Jesus' teaching about humility is only a confused echo of this claim in Plato's *Laws* about being humble before god. Origen, a later Christian philosopher, responds to Celsus that the Christian attitude is not taken from Plato's *Laws* but from the Psalms, which are earlier and thus, again, more authoritative.<sup>49</sup> Competition to have the more ancient tradition aside, both Clement and Origen are aware that the *Laws* passage is a striking outlier in pagan writings about god and the gods, and for that reason they want to integrate it into the Judaeo-Christian tradition as a dim grasp on the part of pagans of the true tradition. We can see that views about god, and about becoming like god, in the *Laws*, have come some way from ordinary Greek views.

The religion of ritual and practice is thus purified and moralized and, while distinct from the ordinary religion of its day, finds resonances in later writers influenced by the *Laws*. Philo of Alexandria discusses the

<sup>47</sup> *Matthew* 23.12, *Luke* 14.11.

<sup>48</sup> Clement of Alexandria, *Stromateis* Book 2, chapter 22.

<sup>49</sup> Origen, *Against Celsus* VI chapter 15. He refers to Psalm 130, 1–2, and to *Philippians* II 6–8.

various Jewish festivals, pointing out that observing a festival properly is not just performing the ritual, though that should carefully be done, but having the right frame of mind to be in a proper relationship with God and to understand our place in the world. The law thus recognizes that every day is a festival to good men. If only we were not dominated by the vices, Philo says, 'but the powers of the virtues had remained unconquered in any way, our time from birth to death would have been one continual festival, and families and cities, in peace and freedom from fear, would have been filled with good things in tranquillity'.<sup>50</sup> For, as the good man understands, keeping a festival is not just having a good time but 'finding delight and festivity in the contemplation of the cosmos and what is in it, and in following nature and in harmony of words with actions and actions with words'.<sup>51</sup> Later the Platonist Plutarch praises the Cynic Diogenes for (allegedly) making the same point: for the good man every day is a festival:

And if we are temperate it is a very splendid one. The cosmos is a most holy temple, most worthy of the gods; humans are brought into it at birth as spectators not of manufactured and static images but of the perceptible representations of things of the mind, as Plato says, such as the reason of god has made clear, which have within themselves, innate to them, the first principle of life and movement – the sun and moon and stars, rivers always gushing fresh water and earth sending up nourishment for plants and animals. Since our life is an initiation into this, and a most perfect ritual, we should be full of cheerfulness and joy, not like most people, who wait for the festivals of Kronos and Zeus and the Panathenaia.<sup>52</sup>

## Questioning Magnesian Religion

We can now make more sense of the Athenian's confidence that,

Someone who thinks that there are gods in accordance with the laws has never willingly done an impious action or uttered unlawful words. If someone does, it is because he suffers from one these three conditions: either he does not believe that there are gods, or, secondly, he thinks that there are, but that they pay no

<sup>50</sup> *Special Laws* II, 42. Cf. *Special Laws* II 209: the Feast of Tabernacles is not just pleasant, but aids the practice (*askēsis*) of virtue. Josephus (*Against Apion* II, 188–9) says that Jews maintain all the time what pagans call *musteria* and *teletai* (religious rites, particularly of initiation).

<sup>51</sup> *Special Laws* II, 52.

<sup>52</sup> Plutarch, *On Tranquillity of Mind*, 20.

attention to humans, or thirdly he thinks that they are easily persuaded and brought over by sacrifices and prayers.<sup>53</sup>

This may at first seem a rather silly thing to say: surely there are lots of people who have done bad things while not denying that there are gods? There are also difficulties with, 'there are gods in accordance with the laws'. Is the idea that they believe that there are gods because the laws tell them to? This is strange in itself (especially given the Athenian's claim that the offenders need persuasion rather than mere command<sup>54</sup>). The Athenian, however, is not thinking of belief in the gods as that would be found in Plato's Athens or other cities of the time. He is thinking of belief in the gods as that is to be found in Magnesia—that is, as belief in the context of a popular religion that has been purified and moralized in the ways we have seen. This also makes more sense of the Athenian's annoyance at the young atheist's rejection of his religious background.<sup>55</sup>

They don't believe the stories which they heard when they were young—from their nurses when suckling, and from their mothers. These were told to them as incantations, both joking and in earnest, and at sacrifices they heard them in prayers, and saw sights along with them, the sort the young most enjoy to see and hear performed at sacrifices. They saw their own parents earnestly, in deep earnest on behalf of themselves and their children, addressing the gods, as though there mostly certainly were gods, with prayers and supplications. At the rising and setting of the sun and the moon they heard of and saw devotions and prostrations of Greeks and foreigners, in all sorts of misfortunes and good fortune—not as though there were no gods, but as though there most certainly are, leaving no suspicion that there are not.<sup>56</sup>

<sup>53</sup> *Laws* 885b4–9.

<sup>54</sup> *Laws* 890b3–c8, which also talks of 'gods such as the law says that they are'. This recurs also in Cleinias' speech at 891 d7–e3.

<sup>55</sup> At 904a6–b2 we find, in a rather throwaway remark, that 'the gods according to the law' have the same status as soul and body—they are indestructible (*anōlethron*) but not eternal (*aiōnion*). While they are not eternal as the cosmos itself is, they are a permanent and indestructible part of it. This mirrors Plato's conviction (124) that religion, as a practice, is a deeper and less plastic aspect of human nature than are political and cultural practices.

<sup>56</sup> *Laws* 887d2–e7. The stories and 'incantations' must be those of the improved religion of Magnesia, since the idea that nurses and mothers tell their children harmful religious nonsense is elsewhere accepted by Plato: at *Republic* 377c1–6 nurses and mothers must stop telling many of the stories about the gods that they tell, and make use only of the suitably censored ones which don't misrepresent the nature of the gods.

This is not the popular religion of Plato's Athens. It is a set of religious practices which, while polytheistic in form, encourage thinking of humans in relation to god, where god is conceived of as a unified and providential way of thinking of the gods, and of the divine in general. God is to be related to citizens in their daily activities, and they are encouraged to think of their relation to the ordering of the cosmos by emphasizing ritual cult of the sun and moon. These are the heavenly bodies most relevant to ancient daily life, especially given the importance of the seasons for agriculture, the main occupation of Magnesians.

Believing that there are gods 'in accordance with the laws' does not have the silly meaning that citizens must believe in the gods because the laws tell them to. Rather it points to the ways that in Magnesia religious practices are regulated by the laws in ways which make them unlike those of other cities. Magnesian polytheistic rituals encourage the citizens to think of the gods as a single system, running the world distantly from us, but good and beneficial to us. The sun and moon, part of this system in the regular changes they bring about in the world, are the most visible aspect of this. Someone brought up in Magnesia, in religious practices as these are organized by the laws, will have acquired a deeper conception of god than somebody brought up in what Plato clearly sees as the religious chaos and free-for-all of his contemporary society. It is the rejection of *Magnesian* religion which the Athenian needs to deal with.<sup>57</sup>

## Philosophical Background to Magnesian Religion

The first opponent is the atheist, who claims that there are no gods. He is taken to have got these ideas from two sources. One is ancient theogonies, which sound rather like Hesiod's, telling of the origin and births of the gods. These are presumably seen as primitive and naïve, unworthy of serious attention. The Athenian allows that these can be criticized, but leaves them out of the account. This is a different approach from that of the *Republic*, where Hesiod's primitive and repulsive story of Cronus and

<sup>57</sup> This may make better sense of the charge that some people reject the gods because they want to be free to fulfil their desires (888a3–4); this would be a desire to escape the restraint and temperance of Magnesian life which is linked to the moderation required in following god.

Zeus is banned from education in Kallipolis.<sup>58</sup> In the *Laws* primitive aspects of religion are preserved when they come from an ancient tradition, but not made public. The Athenian's real target is 'naturalistic' accounts of the world such as circulated in Athens in Plato's time. These were cosmologies which accounted for the coming into being and nature of our world in purely physical terms and thus deprived gods, in both traditional and philosophical forms, of their standard role in popular thought.<sup>59</sup> Cosmologies explaining the origin and present state of our world in terms of a few fundamental natural principles had been familiar for some time; what Plato finds arresting are theories which, unlike the earlier versions, leave no room for divine principles. The Athenian finds this to be the root of mistaken ideas about the divine, and so begins with the atheist who holds that explanations of the world without divine principles are adequate, and hence that belief in the gods is mistaken. Since the gods are not part of the world, the atheist accounts for belief in gods by taking them to be created by human culture, thus accounting for differences of religion in different cultures.<sup>60</sup>

To counter this, the Athenian argues that the atheist's physical explanation of the world is *not* satisfactory. The world cannot be accounted for by nature in the atheist's sense—that is, as a collocation of kinds of physical elements, with nothing to explain the origin and nature of the whole thing except chance and the nature of its elements. For there to be a world at all, the Athenian insists, there has to be something prior to these elements, and this, he argues, is motion. In a complex argument, he argues that motion is prior to the things moved, and furthermore that all motion depends on there being *self*-motion. It is self-motion alone which can start motions which move other things, including all the physical

<sup>58</sup> *Republic* 377e6–378b7. Socrates there does allow that the story might be told to a few people after large sacrifices 'if it were true', a concession to primitive expressions of religion which may foreshadow the *Laws*' approach to theogonies. It is, however, utterly forbidden as part of public education.

<sup>59</sup> This doesn't imply that they explicitly denied the existence of god. The lack of names and combination of different views in this passage have sometimes led to the thought that Plato invented the views he opposes; see however Sedley (2013b), who points out the dangers in open atheism and the plausibility that such theories were around at the time.

<sup>60</sup> A specific cynical form of this view is the 'Sisyphus fragment' ascribed to Critias (see Chapter 3, 49, note 58). In a speech from a play (presumably a satyr play) a speaker, presumably Sisyphus, tells a story of how a clever person invented the story of all-seeing gods to keep people from furtive crimes. See Dillon and Gergel (2003) 250–5; the fragment is sometimes ascribed to Euripides.



movements of physical things, the items which, according to the opponents, are the only principles necessary to explain the cosmos.<sup>61</sup> He goes on to argue that only *soul* exemplifies self-motion, so that soul is prior to body; hence cosmologies featuring only physical bodies are leaving out something crucial. 'Soul is the same being as the first generation and motion of what exists . . . since it has been shown to be the cause of all change and of motion in all things.'<sup>62</sup>

Two important consequences are drawn from the priority of soul. One is that soul is responsible for both good and bad, a point which in the *Laws* alone in his work leads Plato to hold that there is a cause for evil in soul, rather than in the materials that soul deals with.<sup>63</sup> The other is that, since soul 'manages' everything in motion, it must be what produces the motions of the heavens. It is soul which does the work of sustaining all the motions of bodies and thus producing a cosmos. Since the cosmos, with the heavenly bodies circling the earth in regular and predictable ways, is an orderly and systematic whole, the soul guiding it must be a rational one; if it were devoid of reason it would produce a chaotic mess, but this is not our experience of the world. It is clear in general that it is reason in soul which enables it to produce order in what it manages, but the exact relation of soul and reason here is left somewhat obscure, and has created controversy, which fortunately need not be gone into here. Further, reason, in a difficult passage, is identified with god,<sup>64</sup> and the Athenian proceeds to think of cosmic reason, working through cosmic soul, as divine. Our own reasons are too limited and feeble to warrant being called divine, but the rational and orderly organization of the cosmos by cosmic reason shows us what the divine is.

This idea, of understanding the world as ordered and unified, well organized and good as a whole, gives us a background to the gnomic earlier statements about law being a kind of reason, and divine. Reason organizes the world as a whole, organizes cities insofar as they are organized and directed by public reason in the form of law, and organizes individuals insofar as they align their own reasons with this public reason

<sup>61</sup> I do not here go into the argument itself, which would require a long digression. Mayhew (2008) is a guide to the issues arising at various stages of the Athenian's speech.

<sup>62</sup> *Laws* 896a6–b1, Mayhew's translation (2008).

<sup>63</sup> *Laws* 896e. On the problem of the 'bad soul' see Mayhew (2008), 131–4.

<sup>64</sup> On this issue, and the difficult passage at *Laws* 897b, see Menn (1995), van Riel (2013), and Mayhew (2008) 134–8.

and thus live their individual lives rationally, obeying and understanding the laws that structure their lives as citizens. With a proper understanding of god, we can see that we should do the best we can in our own little way to do what cosmic reason does in the world as a whole—namely, impose rational order on materials. In our case this is the materials of our life, which need to be ordered in ways harmonious with the direction of reason. We can see why the Athenian insists that, to be good citizens, Magnesians must not deny the existence of the gods or have fundamentally mistaken beliefs about them; if you don't have the right conception of god, you won't understand the role of reason in the cosmos, and so won't understand the way our reasons should align with it by aligning with public directive reason in the form of law. We can see how far Plato is from some later theists who have argued that god is needed to support conclusions about ethics or politics which are arrived at independently of god. The traditionally founded polytheistic practices in Magnesia are to be understood as expressing, and fostering, a providential theism not obvious to people in other cities.<sup>65</sup>

How do we, as rational beings, align our individual reasons with reason in the cosmos? In Magnesia it is the law which takes the form of public reason. It is the directive aspect of the rational ordering of the city; it imposes on citizens ways in which their activities give priority to virtue over the 'human goods' and so helps to train the citizens who understand the laws to become fully virtuous. Obeying the law is in Magnesia a crucial part of developing the virtues, and so someone with a faulty understanding of what law is will fail to become virtuous. An understanding of the cosmos, and of the role of directive cosmic reason, is needed to see that the laws of Magnesia are aligned with reason in general, particularly as we can see that in the regularities of the universe, citizens can see that their laws have an objective basis, and are not tempted to think of them as merely the products of compromises between political parties.

This cosmology deepens our grasp of what god is, but it is very bare, giving in minimal form some of the ideas developed more expansively in the *Timaeus*.<sup>66</sup> As in the *Timaeus*, Plato's arguments for the rationality

<sup>65</sup> This is why Mayhew's (2010) name of 'Traditional Theist' for the third person can be quite misleading.

<sup>66</sup> Mayhew (2010).

and good order of the cosmos have as their basis the exceptionless regularities of the heavenly bodies. He does not appeal for support to the well adaptedness of parts of animals, such as the eye, which so impressed later theists like Paley. Plato is not impressed by unimportant parts of the cosmos like human eyes; in the *Timaeus*<sup>67</sup> he spends time describing the nature of the eye and how it works, but his argument for cosmic teleology is top down, from the mathematically discernible regularities of the heavenly bodies, so that the workings of the eye, like the spherical shape of the head,<sup>68</sup> are argued for from principles of regularity rather than used as empirical support for these. The cosmological account in the *Laws* is also strikingly minimal about the place and role of humans and their good or bad lives. The Myth of Er in the *Republic* gives a colourful, indeed at points gleeful, account of afterlife rewards and punishments, but in the *Laws* we find only that from the cosmic point of view the true reward of vice is to become ever more vicious and unable to improve. The Athenian has already said, in the speech to the settlers, that this is true already in this life;<sup>69</sup> we find in Book 10 that this is part of a cosmic pattern.

It has often been pointed out that Plato in the Book 10 passage anticipates a number of the aspects of *natural law* as that of the Stoics (to whom we shall turn in Chapter 7).<sup>70</sup> Technically he rejects the idea of a law expressing or based on *nature*, since in this context he associates nature with the de-divinized conception of nature he aims to replace, and so he insists that reason is divine and not *merely* natural. However, there is a real similarity between the *Laws*' position and that of the Stoics, in that both take law to exist objectively and independently of what states actually institute, both define law in terms of reason, and both think that existing laws have ethical authority only to the extent that they embody what is really law. What makes Magnesia's laws good, the laws of a city where the citizens will live virtuous and so happy lives, is that they embody the real, objective law whose workings can also be observed in the rational workings of the heavens and so of the cosmos as a whole.

The rationalist, who believes that the gods exist but does not think that they are concerned for humans, is dealt with more briefly, since no new

<sup>67</sup> *Timaeus* 45b–46a. <sup>68</sup> *Timaeus* 44d–45a. Cf. 90a–d.

<sup>69</sup> *Laws* 903b4–905d1; 728a5–c8.

<sup>70</sup> See Irwin (2010) for a discussion of this point.

argument is needed. The Athenian points out that, if he accepts the argument hitherto, he has the right conception of god, but has failed to draw the right conclusion about his own relation to god. He has not freed himself from the traditional view that the gods' support for justice will take the form of intervening in events to right injustices and produce happy endings. On the correct view of god, however, we can see that the nature of god is perceived in the regular rhythms of the cosmos, not in interferences with them. The rationalist is praised by the Athenian for being unwilling to land the gods with the characteristics given to them in traditional religion taken literally; but he fails to understand how the cosmos is providential.<sup>71</sup> The cosmos is ordered for the good of the whole, not for the benefit of particular individuals, and it is only in understanding that you and others are just small parts of the cosmos that you can come to see the local injustice is not neglected, but is recompensed on a larger scale. The rationalist has failed to internalize the thought that the universe does not exist for his or any individual's sake. We are just small parts of it and need to take up the perspective appropriate to that, rather than inflating our own sense of individual importance. It has seemed to many readers that the rationalist was objecting to the neglect of justice by the traditional gods, and has been answered by a change of subject, the overall providential ordering of the cosmos. But the rationalist has grown up in Magnesia; he grasps that providential theism is the deeper message of the polytheistic practices, but has just not followed the thought through.

The traditional polytheist, however, has taken part in the traditional religion practices without grasping the deeper meaning about the divine that these foster. The Athenian calls this group the worst. One reason is that they are literal minded about traditional polytheism, and hear formulas about giving to the gods and receiving from them as though the gods were like powerful humans susceptible to gifts. What would support this? We are told that people hear traditionalist views 'from those who are said to be the best poets and orators and prophets and priests, and thousands of other people too'.<sup>72</sup> But who are these people? Magnesia has no need of orators and probably none for prophets; and

<sup>71</sup> *Laws* 899d6–e4 for the Athenian's praise of the kinship to the divine which gets the rationalist to reject conceptions of the gods as unjust.

<sup>72</sup> *Laws* 885d4–e1.

Magnesian poets and priests are not permitted to express any such thought. And where are the vast crowds of the like-minded? We may wonder whether there is some slippage at this point, and Plato is really here thinking of his own audience of Athenians. More probably we should suppose that these ideas, together with praise of their authors and exaggerated estimates of their influence, have somehow got past the censors into Magnesia and circulated among the young. The same is true of a passage where the Athenian says that the lawgiver has to take these views seriously, since these views have been long established (*toutōn palai pareskeuasmēnōn*).<sup>73</sup> How has this been allowed? It seems that in conceiving of Magnesia on the model of a new city founded by citizens from elsewhere, Plato has allowed that some bad traditions from the citizens' original homes may not have lost their hold even among those educated according to Magnesian laws.

The Athenian also takes the traditional polytheists to be motivated by greed. This fits neatly with his constant emphasis that the root of most evil is *philautia*, selfishness. The person who tries to bribe and manipulate the gods is exhibiting selfish greed, in trying to bribe them for special concern for his own affairs, and he is objectionably self-assertive in claiming that *his* affairs can be made especially important to the gods through his efforts. Throughout the *Laws* the Athenian comes down on people who try to divert for their own individual benefit what is supplied as a common benefit for all; the members of the third group, in doing this, display worse character than the others.

The Athenian comes close to calling Magnesia a theocracy.<sup>74</sup> This is because citizens live under the rule of law, and law, we have found, is divine, the embodiment in society of cosmic reason. This is not like theocracies that we are now familiar with; there is no sacred text, no creed that everyone has to subscribe to, no class of people who are both priests and authoritative teachers. For Plato the citizens' relation to god is to develop in the frequent festivals, where citizens engage in enjoyable activities of singing and dancing to honour the gods and, in these activities, develop an embryonic form of the full philosophical attitude: god is the living rational principle behind the orderly arrangement of the

<sup>73</sup> *Laws* 890b3–4.

<sup>74</sup> *Laws* 713a2–4. The term *theokratia* appears for the first time in Josephus, *Against Apion* II, 165.

cosmos and of social and individual life, and is good and beneficial; and (importantly) is too removed from humans for our doings to affect god—in particular for us to engage in bartering with god. We follow god in becoming orderly and rational in our lives, and we do this by obeying and understanding the laws of Magnesia, which structure practices in which we can develop virtues. In so doing, we are enacting on a miniature scale the workings of an orderly and rational cosmos.

## Knowledge of the Basis of Law: the Nocturnal Council

Given that this is the nature of law—the directive organizing force of public reason in the city—what is involved in having knowledge of it? The Athenian doesn't claim to have that knowledge, but (like Socrates in the *Republic*) he can at any rate tell us the kind of thing that would be required to have it. It is clear that Cleinias and Megillus don't have it; the best they can do is to follow along, and this is clearly insufficient for acquiring knowledge.<sup>75</sup> We find that this difference between the Athenian and his companions is reflected in the institutional structure of Magnesia. There is a special council, it turns out, which re-educates atheists and others with mistaken beliefs about god. Here Plato innovates in several ways. Those convicted of the three wrong views of the gods which undermine civic virtue and the proper understanding of law are all condemned to a new penalty, being detained in a special prison for five years, while members of a special council visit them and try to 're-educate' them through discussion, bringing them to the correct view of god and god's relation to us humans. After five years they can be released.<sup>76</sup> A distinction is now drawn between two types of offender in all three categories. Those who conceal their views in order to manipulate people are given a penalty intended to be worse than death: they are imprisoned for life in a remote area.<sup>77</sup> Use of prison as a

<sup>75</sup> The Athenian says to Cleinias that he has 'listened excellently' (898c9) to the arguments.

<sup>76</sup> It is not clear that the sentence must be no longer than five years, and there may be an element of probation in the release.

<sup>77</sup> The people in each group who deserve worse are first described as having no self-control about pleasures, but also as having good memories and sharp minds (908c1–4). They are secondly described as cunning and treacherous, with examples given of magicians,

punishment, and the idea of re-education as rehabilitation, are two of Plato's most original ideas.

The special council in question is referred to in Book 10 before being introduced and described in Book 12. It meets at first light, in accordance with Plato's obsession with minimizing sleep, but is generally referred to as the 'Nocturnal Council'. It is a council made up of the ten oldest Guardians of the Laws, the official in charge of education and his predecessors, citizens who have won special honours, and citizens who have been entrusted with travel abroad to observe and report on what can be learned from other cities. There are also junior members, each brought by a senior member; these must be at least 30 years old.<sup>78</sup> The functions of the Council, apart from re-educating citizens who have mistaken beliefs about god, are two. One is to discuss the reports brought back from foreign visits by the trusted envoys, to see if their reports suggest anything which should be considered useful for Magnesia. The suggestion is not simply that the envoys should positively search for improvements—after all, they are expected to report to other citizens how much better life is in Magnesia than abroad<sup>79</sup>—but the Athenian remarks that great ideas can crop up in people in badly governed states also, and these are worth seeking out.<sup>80</sup> Magnesians laws, while they have solid and stable principles, may need to be adjusted in the light of changing circumstances and new ideas that arise abroad. A city will never maintain its level of virtue and civilization if it isolates itself completely from other cities and refuses to learn from foreign ideas. This is only to be expected, given the way Magnesia has been produced on the basis of considerations from history and experience; however stable he wants the law code to be, nobody is more aware than Plato of the fact that the world is always changing, and Magnesia is not to copy the self-satisfied, self-destructive isolationism of the Spartans. Moreover,

tyrants, demagogues, and generals, and also those who scheme by means of private rites, and the devices of 'sophists' (908d1–7). They are summed up as the 'dissemblers' (*to eironikon*) (908e1–2.). This is a mixed bag, but we can take the leading idea to be that these people dishonestly manipulate others. (It is not clear why this should line up with lack of self-control about pleasures.)

<sup>78</sup> Stalley (1983) 190. At 951e those who have won special honours are to come from priests, but this is not mentioned at the more 'official' account at 961a.

<sup>79</sup> *Laws* 951a2–4.

<sup>80</sup> *Laws* 951a7–c4.

'A city which was isolated, with no experience of good and bad people, could never be properly peaceable and faultless, nor could it maintain its laws without grasping them by comprehension and not just by habits.'<sup>81</sup> The other function of the Nocturnal Council is that of exploring the philosophical basis of Magnesia's laws. The Council is to be the city's 'head', which will have the intellectual resources to ensure that it remains safe and stable. This is not in tension with the first function, since what are to be stable are not the details that can be adjusted in a changing world, but the ways in which the city pursues its overall aim in the workings of its institutions. The citizens must keep *eunomia*, law and good order, in their souls, and the laws must be secure;<sup>82</sup> and this requires a grasp of the city's overall aim which is clear and stable. This overall aim, familiarly, is virtue, which must have priority over other aims. The Council is thus to study, more abstractly than the other citizens, the way that virtue is both one and many; it is virtue as a whole and also the four virtues of wisdom, courage, temperance, and justice. It is easy to see what makes these four different, but it's another matter to understand what unifies them under the term 'virtue'; we have to be able to give an account of this and not just use the word correctly, so the issue has philosophical depth.

We may be surprised to find what looks like a throwback to the discussions in the Socratic dialogues about 'giving an account' of what we thought we understood because we can use the words correctly, and some have thought that the issue here is itself a throwback. It is easy to see, however, why the unity of virtue is important in Magnesia. The city's laws are all so constructed as to foster the priority of virtue in the activities they structure and hence in the development of virtue in the citizens. Different laws, however, foster different virtues and so different aspects of virtue in general. It is crucial, therefore, to ensure that the development of the different virtues is integrated in a way that produces a unified conception of virtue in the laws and hence in the citizens. This is a difficult matter. For example, the laws about military exercises every month on a war footing might make the citizens too martial to be readily reconciled to the temperance they should express in their attitudes to property and to sex. The law code has organized citizen life over a broad

<sup>81</sup> *Laws* 951a7–b4.

<sup>82</sup> *Laws* 960d1–4.



range of activities, but there remains the need for a pull-back to a wider picture in which the relations of the laws and the virtues they foster can be seen together as integrated. It is the lack of this which, according to the Athenian, makes it unsurprising that the legislation of most cities is unstable. Some cities have a single aim, but it is that of a faction in control, while others have two aims at the same time—domination over others while living freely themselves. The Athenian takes it as obvious that these are disastrous policies, but reserves special scorn for those whose laws try to produce several aims instead of one overall one. There is no argument for this (only enthusiastic agreement from Cleinias); Plato takes it as obvious that it is incoherent to promote different and potentially conflicting values, and will lead to faction and breakdown.<sup>83</sup>

Understanding of what unifies virtue, goodness, and beauty<sup>84</sup> requires more specialized education than citizens of Magnesia have had hitherto. The Council members, here called ‘guardians’, must have real knowledge of all the serious matters that they deal with, be articulate in discussing them, and be able to carry their knowledge into practice as they judge what is well and what badly done.<sup>85</sup> There is little here about the actual course of learning that is required, except that it will involve knowledge of the soul and of cosmic reason, which will clearly necessitate more mathematics and astronomy than ordinary citizens learn. (Courses in these subjects are briefly indicated.) Only people who are intelligent enough, and have studied enough, to grasp these basic truths can be rulers; the rest will have ‘ordinary virtues’ and help the rulers.<sup>86</sup>

This claim, and the use of the word ‘guardians’, have encouraged the idea that the Nocturnal Council is, in fact, the main, though unseen, ruling body of Magnesia, and even that the Council is a return to the ruling guardians of Kallipolis. ‘Is this not a return to the ideal of the autocratic rule of true philosophers?’<sup>87</sup> No. The Nocturnal Council is introduced as a way of making sure that the laws are stable, and is made up of people who have spent their lives gladly obeying the laws and making sure others obey them. It is introduced shortly after the laws which organize and give extraordinary honours to the auditors, who keep officials honest during their tenure of office. A return to anything

<sup>83</sup> *Laws* 962d7–963a4.

<sup>84</sup> *Laws* 966a5–6.

<sup>85</sup> *Laws* 966b4–8.

<sup>86</sup> 967d4–968a4. The virtues of ordinary people are *dēmosiai aretai*.

<sup>87</sup> Brunt (1993) 250–1.

like the philosopher-rulers of Kallipolis would be bizarre in this context, would be completely unmotivated, and would contradict the main point of Magnesia's construction. It is true that both the philosopher-rulers of Kallipolis and the Nocturnal Council are educated to be law-abiding and to enforce the laws, that both owe their authority to their greater education and hence understanding of what is best for the city, and that both are 'guardians' (though in Magnesia they are guardians *of the laws*). The big difference, though, is that the education of the Nocturnal Council is focussed on understanding the intellectual basis of the laws and the way they are applied; this is the object and the point of their intellectual concern, as is not the case with the education of Kallipolis' philosopher-rulers, which famously culminates in the grasp of the Form of the Good. This difference leads to another: while the philosopher-rulers of the *Republic* have to be compelled to rule, the members of the Nocturnal Council face no tension between theory and practice. They are intellectuals who have spent most of their life acting as officials, and aim to improve their experienced practice by intellectual understanding of its basis. There is no suggestion that the intellectual understanding itself is going to draw them away from their preoccupation with its application.<sup>88</sup>

The Nocturnal Council does not introduce a new political element into Magnesia, as some have suspected, a group of philosopher-rulers pulling strings from behind the scenes. Its function is to keep the city alive intellectually, ensuring that the stability of the laws, and hence of the citizens' virtues developed in following them, does not become rigid and sclerotic. The law code, and Magnesian institutions, must be both stable and supple. As often, Plato is trying to have the best from two things which seem opposed to one another: stability and intellectual liveliness of response. But this is inherent in the whole project of having a city, which is to combine the best of Spartan discipline with the best of Athenian active civic participation.

However, the fact of the Nocturnal Council highlights a complication which emerges clearly with the Council in the final books, though it is implicit or hinted at in earlier books, and so does not indicate a change of

<sup>88</sup> See Perkams (2013), especially p 244. Morrow (1993) chapter IX shows why it is a mistake to think of the Council as a political body with large powers. On p 512 he argues against overinterpretations of the comment at the very end of the work that the city should be 'passed on to' the Council (*paradoteon*, 969b2).

view during the composition of the work. When the Athenian comments that only those with the necessary intellectual education can be rulers in Magnesia, Cleinias and Megillus agree, not commenting on the fact that this excludes them. Cleinias is among the leading citizens of Cnossus who are to help in the initial establishment of Magnesia, but once it gets going he is clearly not the kind of citizen who will be picked out as intellectually and ethically promising, a potential member of the Nocturnal Council. In this politically egalitarian society there is an educated minority that understands the basis of the laws, and so the basis of the citizens' virtues, at a depth that most citizens do not. The majority of citizens understand what makes Magnesia a good city, but at a different level from the more highly educated minority.

Plato has no reason to find this objectionable, or even remarkable, whatever we think of it. It may seem to be a modified revival of the principle so obvious throughout the *Republic*, that authority should be based on knowledge. In the *Laws*, however, the situation is more complex. In the *Republic* the guardians have knowledge, on the basis of which they organize the lives of the other citizens, who lack it. There is no suggestion that the other citizens are supposed to apply themselves to understanding their way of life, rather than simply living it; indeed, the scant attention they get suggests that they are to live the life of farmers, like citizens of other Greek states, and they are to accept without resistance the ideas that the knowledgeable rulers give them, in the way suggested by the 'Noble Lie'. But in the *Laws* the citizens must not only obey the laws but understand them in the way we have seen. They are 'persuaded' by the preambles, against the background of the system of education, that failing to marry is failing your ancestors, that hunting with nets is cowardly, that bargaining is contemptible. Because they learn to be virtuous in following the laws they are different from citizens of other cities who see laws as constraints to be accepted in order to avoid punishment; Magnesians understand, as others don't, the good achieved by their laws. So we would not expect to find the gulf in understanding that separates the *Republic* rulers from other citizens; the members of the Nocturnal Council will understand the point of the laws in greater depth than the other citizens, but this should be a matter of degree rather than of kind.<sup>89</sup>

<sup>89</sup> *Laws* 966c1–d3.

This is what we find. Citizens educated in Magnesia will, in their civic religious practices, acquire an implicit grasp of what is crucial about humans' relation to god: god organizes the world in a rational way which is good and beneficent for it, and hence for its parts, including us, but god is not a part of the world that we can either blame or manipulate, and we should think of god as beneficent but also appreciate the depth of the gulf between us and god. This is an implicit grasp of the kind of beliefs about god acquired by those who have deeper education in astronomy and other abstract sciences, and can grasp the details of the general cosmological picture. The members of the Nocturnal Council have a clearer, better-based, more rigorous, and far fuller picture of the nature of god than do ordinary citizens; but this is not the gulf between the philosopher-rulers of Kallipolis and the other citizens as regards the Form of the Good. It is fine for ordinary people just to follow the laws on this matter, while the leading officials, and especially the members of the Nocturnal Council, need to have deeper insight, but they basically share the same conception of god—certainly as compared to citizens of other states who still think in terms of bargaining with the gods. Indeed, if the gulf between ordinary citizen understanding and that of the Nocturnal Council were like that between rulers and producers in the *Republic*, the whole elaborate scheme of re-education of people with wrong beliefs about god would be futile. The atheist and other offenders are capable of rising to the level of understanding that the Council can impart and which is modelled for us in Book 10. If this were not the case, the innovative suggestions about re-education would be cruelly pointless—the offenders would be spending years trying to learn something they were incapable of understanding.

Plato is, as often, wanting to have the best of both worlds. Magnesia must respect the traditional forms of ritual and practice, but this enables development of a providentially theistic view of the divine. In this development Magnesians also come to appreciate that their laws have an objective basis lacking to laws of other cities. Explicit understanding of these issues is not needed for most citizens, but if something goes wrong they can be educated by a small group who do have deeper and intellectually richer understanding of them. With religion, and the understanding of the basis of law, Magnesia is to be traditionalist and radical at the same time.

Whether or not this synthesis of traditional form and transformed substance would work, there is one point where Plato fails to see the implications. The philosophical conception of god takes it to be the moving rational force organizing the cosmos and this, and the concomitant demand for awe as we puny humans grasp the magnitude of the metaphysical distance between us and god, get us to think of god as primarily a cosmic force rather than a series of anthropomorphic figures who need to be placated. Despite Plato's efforts to respect the Olympian deities, and his integration of worship of the sun and moon into the city's cult,<sup>90</sup> god is on the way to becoming what it becomes in Hellenistic philosophy: a cosmic deity, conceived in a way in which political context fades. Popular religion carried on enthusiastically into the Hellenistic period and beyond, but Plato's ambitious synthesis of popular and philosophical religion did not survive in Greek thought as a basis for *civic*, rather than individual, virtues.<sup>91</sup>

<sup>90</sup> Morrow (1993) 445–8.

<sup>91</sup> It is also significant that priests are on the Nocturnal Council, and that the much-honoured auditors are to be priests of the Sun and Apollo (*Laws* 945–6). In ordinary Greek religious life, prominent citizens might take on priesthoods, but these are not thought of as giving intellectual preparation for civic engagement. Plato appears to be thinking that acting as priests will make people more thoughtful about the nature of god.

## 6

# Citizen Virtue

Citizens of Magnesia are, then, to understand implicitly in their way of life, and most of all in their participation in performances in the festivals, that their life is a virtuous one, and so good and happy; the virtues are fostered by obedience to and understanding of laws which embody the directive aspect of public reason. Public reason in turn embodies in the city the regularities that direct the cosmos in a way which renders it a harmonious whole in which all the parts, insofar as they are functioning well, work for the good of the whole. The day-to-day version of this will be that the gods are good and never anything but good, and that they are good to all the citizens alike and to the city as a whole. This view of the universe, and their part in it, is absorbed as part of the overall education of character that citizens go through. Most will not need to go through an explicit intellectual argument for this, since it will not occur to them to question the basis of their way of life, or to ask whether the virtues fostered in Magnesia are superior to those produced in other cities. Should they make the comparison, however, as Magnesians visitors abroad will do, they will, the Athenian is confident, judge their own way of life to be greatly superior.<sup>1</sup> This may seem like wishful thinking, and the highly organized and regulated nature of life in Magnesia would repel many readers in the ancient world, quite apart from the fact that when we read it we cannot help but be reminded of the horrendous results of many attempts in history to produce an overall regulation of social and civic life. Plato could, however, point to the fact that the civic life of his own day, in Athens and elsewhere, was competitive, often to a violent degree, contained gross inequalities of wealth and power which

<sup>1</sup> *Laws* 742b1–c2, 950d4–952d4.

often led to civic conflict (*stasis*) and ignored the importance of education when considering the characters desirable in citizens.<sup>2</sup>

The development of virtues in the citizens of Magnesia requires, as we have seen, obedience to and understanding of their laws. Insofar as they grasp that their laws have an objective basis which the laws of other cities lack, they will, if the comparison is made, grasp that their own virtues are to be preferred as constituting a life lived happily. They can see on an everyday level the problems in a competitive and violent lifestyle, but they can also grasp that the laws promoting such a way of life lack the ethical authority of their own. Magnesians will thus not be troubled to find out, if they do, that the virtues of their own way of life are rather different from those of other states, and they will understand the connection between this and the laws that foster those virtues.

The objective status of the law in Magnesia is not based on any revelation, religious or secular. It is based on the idea of reason directing the cosmos, the city, and the individual life. The distinctive ways in which reason does this are not expounded as doctrine by Plato, for reasons that characterize his method overall.<sup>3</sup> A leading idea in the cosmology is that reason is what cares for a whole, and for the parts of the whole as parts of the whole whose parts they are. This idea runs through the law code in two applications.

Firstly, the citizens should think of themselves primarily as cooperating parts of the city, not primarily as distinct competing individuals. The Athenian throughout denounces selfishness and self-assertion as the root of most evils, most forcefully in the long speech to the settlers.<sup>4</sup> The focus of many of the laws is to discourage this and to encourage a cooperative attitude among citizens. Common meals for both men and women are to encourage friendships, as are the regular military exercises. Practical crafts are forbidden to citizens, so they will not find themselves competing for customers or trying to profit from their dealings with one another. Political life and governance involve elections, but these are hedged with preliminaries which narrow the competitive element. At the frequent festivals citizens will learn to sing and dance together in choruses. All these and other activities are structured by laws which channel energy and effort into joint rather than individual achievements.

<sup>2</sup> Except, of course, Sparta and Crete, but their example is undesirable too.

<sup>3</sup> See Chapter 1, 141, 145–6.

<sup>4</sup> *Laws* 731d6–732b4.

Secondly, each citizen is taken to be a whole in which reason has to cope with our drives to seek pleasure and to avoid pain. The puppet passage makes it clear that reason is what we are to identify with as the self; it is what gets the puppet moving itself as a whole agent, rather than abandoning action to the 'stupid and stubborn' pulls of pleasure and pain. This is a simplified version of the same basic picture as in the *Republic*: reason understands what is best for the whole person, while our drives to get pleasure and avoid pain are focussed on their own satisfaction regardless of the good of the whole. Living according to reason thus involves reason's directing these drives so that their satisfaction is for the good of the whole, and not just the immediate gratification they go for. Reason, the 'soft, golden' cord in the puppet passage, is thus to keep these drives in order, but also to educate them, as we learn from the claim that pleasures can be sought in good or bad ways, and that it is the expert lawgiver who gets us out of our foggy view of what this requires.<sup>5</sup>

This schematic idea early in the work is filled out in the law code, where citizens must obey the law strictly but also understand it. They are educated to live their lives in ways in which their natural drives towards pleasure and away from pain are curbed in ways that they learn to identify with. The energy of the drives is thus being channelled towards action endorsed by the whole person. This is a complex achievement. It is less than is demanded of the rulers in the *Republic*, who identify with their reasons in ways that ultimately lead them to downgrade the everyday claims of our natural drives towards pleasure and away from pain. It is considerably more than is demanded of the producing class in the *Republic*, who have to obey, strictly, the laws expertly laid down by the rulers, but without the requirement that they themselves understand the reasoning behind them. In this way the *Laws* is, as often noticed, more egalitarian than the *Republic*; all citizens live the same way of life, in which inequality and hierarchy are greatly restricted. (It remains highly unequalitarian as regards the citizens' relations to slaves and resident aliens.) It is not surprising, then, that citizens are to be self-controlled in their own lives as well as cooperative in their relations to others.

<sup>5</sup> *Laws* 663b7–c5.



## Living Moderately

The main virtue of the citizens of Kallipolis is justice, but the main virtue that is stressed for Magnesian citizens is *sōphrosunē*, translated as 'temperance' for want of a single English term which corresponds closely. The ordinary idea of *sōphrosunē*, which the Athenian appeals to in one passage, is that of self-restraint, which, he says, blossoms naturally even in children and animals, making them able to be continent with respect to pleasures.<sup>6</sup> But *sōphrosunē* is more important than this suggests. We find that it is temperance which is needed in concert with the other virtues in order for them to function in a valuable way. 'The hierarchies of virtues, goods and values which are so persistent a feature of the *Laws* repeatedly elevate *sōphrosunē* to a position of greater importance than it enjoyed in the *Republic*.'<sup>7</sup> This is an unusual role for temperance to play. Wisdom is, as expected, the virtue which enables the other virtues to be integrated as expressions of a unified intelligent understanding of the world, but in the *Laws* we find the addition that temperance is also needed for justice to develop, the idea being that a cooperative attitude to others, rather than a self-asserting and competitive one, is necessary for the development of a just appreciation of what is due to others.<sup>8</sup> Temperance and wisdom, like Nestor's, is uncommon, but produces a happy life.<sup>9</sup>

Here the Athenian makes a virtue for all citizens what in two places in the *Laws* is introduced as a virtue of women, people with a limited lifestyle and strong social sanctions as to the expression of their emotions. Boys and girls in Magnesia are, in the process of finding partners, to see one another naked to the waist 'as far as temperate modesty (*aidōs*) allows'; given the habitual full nakedness of Greek men exercising, the modesty here must concern the girls.<sup>10</sup> Even more striking is the passage where suitable types of words and music are being specified for men and women; this is part of the general education which habituates everyone to virtue. The men's songs must express elevation and what tends to courage (*megaloprepes*, *to pros tēn andrian rhēpon*), while the women's must express rather what tends to the orderly and temperate (*pros to*

<sup>6</sup> *Laws* 710a5–b2.

<sup>7</sup> North (1966) 187.

<sup>8</sup> *Laws* 696b8–697c3.

<sup>9</sup> *Laws* 711d6–e7.

<sup>10</sup> *Laws* 771e5–772a4.

*kosmion, sōphrōn mallon apōklinōn*).<sup>11</sup> This insistence on traditional womanliness is in tension with the laws educating women to be soldiers (and hence active citizens, members of the assembly). The unresolved problem of women's roles in Magnesia comes up elsewhere, but here it foregrounds a cultural tendency to think of temperance as fitting for women in contrast to men.<sup>12</sup>

*Sōphrosunē* is also, however, the virtue most associated with Sparta, the city where life is focussed on courage and military success. In the debates which open the Peloponnesian War in Thucydides, *sōphrosunē* is ascribed to the Spartans by the Corinthians, and taken up extensively by the Spartan king Archidamus, himself said to exemplify it. Sparta's success, he claims, depends on not rushing into conflicts but addressing matters with *sōphrosunē*, which restrains arrogance in success and fortitude in misfortune. *Sōphrosunē* makes Spartans good soldiers, Archidamus claims, because it makes them sensitive to shame, and ready to obey their laws, unmoved by rash praise or criticism.<sup>13</sup>

How can the typifying virtue of women be the same as the virtue that Spartans are proud of? A passage from Xenophon's discussion of Sparta helps us to see the connection. Unlike teenage boys in other cities (who are presumably rowdy and uncontrolled) Spartan teenage boys, he tells us, have overseers at all times; when they walk in public they keep their hands in their cloaks, eyes silently downcast, and are hard to get a word out of: the males are stronger in *sōphrosunē* than the females.<sup>14</sup> Spartan boys behave in public like well-behaved girls in other cities: walking in public inconspicuously, not making eye contact or talking with other people. The link here seems to be *discipline*: women, and boys in Sparta, show marked *self-discipline*, which in the case of the Spartan boys comes from extensive disciplining by adults and older boys (and in the case of girls comes from the culture as a whole). Plato's view of *sōphrosunē* is to some extent marked by its association with habituated self-control, the

<sup>11</sup> *Laws* 802e5–11.

<sup>12</sup> *Sōphrosunē* occurs for the first time in Euripides with the normal meaning of self-control (North (1966) 75–6), and is most prominent as the virtue of chastity which women are to have; Hippolytus is an exception among men in claiming to be *sōphrōn* in this sense (79).

<sup>13</sup> Thucydides, *The Peloponnesian War* I, 68, 84. See Rawson (1969) chapter 3.

<sup>14</sup> Xenophon, *Constitution of the Spartans*, 2–3. Xenophon goes on to say that they are more bashful than a bride, a part of the text that has been queried.

ability not to be carried away by praise or blame into actions which are not endorsed by the authority one recognizes. This emerges in the two passages where it typifies women as opposed to men.

However, self-control is not the aspect of *sōphrosunē* most marked in the *Laws*. Most of the passages where it is mentioned explicate it in terms of moderation, which is in turn seen as avoidance of extremes and sometimes of hitting the mean (an idea which is bound to suggest Aristotelian thoughts<sup>15</sup>). The settlers, in the great address, are told to follow and be like god in avoiding self-assertion and self-love, and in being temperate, where this is spelled out in terms of being *moderate*.<sup>16</sup> It would be inappropriate to think of following and becoming like god in terms of self-control; as Aristotle later remarks, this would be a vulgar kind of praise of god, assuming bad divine desires.<sup>17</sup> And in much of the *Laws* *sōphrosunē* is explicated in terms of moderation, the mean, and avoiding extremes as well as in terms of self-restraint.<sup>18</sup> Lawgivers, for example, should aim for the mean or moderate to avoid the instability that comes from having one element in a society develop too forcefully at the expense of the others.<sup>19</sup> The idea of discipline (and hence self-discipline) is linked with avoiding extremes, in the design of political institutions and in individuals' lives.

Citizens' lives reflect this. The character needed for a happy life in Magnesia is one lived temperately and wisely, one in which each citizen should be ambitious to be virtuous without envy, gentle as well as spirited, and avoiding excessive self-love. This way of life will avoid emotional extremes, either of joy or of sorrow.<sup>20</sup> Even in terms of pleasure and pain, the Athenian tells the settlers, the temperate life is the one which wins the prize: the life of even and steady pleasures and pains is overall more pleasant than the life in which they come in extreme forms.<sup>21</sup> The point is not limited to the great speech; in the discussion of the education of infants we find:

<sup>15</sup> The idea of the mean is present also in the *Statesman*: 284e, 286e–287a, 310a.

<sup>16</sup> Being godlike in being moderate: *Laws* 716c4–d4; cf. 792c7–d4.

<sup>17</sup> *Nicomachean Ethics* 1178b15–16.

<sup>18</sup> For example, the show put on at a funeral may be excessive, defective, or 'middling' (*metrias*): *Nicomachean Ethics* 719 d3–e5.

<sup>19</sup> *Laws* 691b1–d5.

<sup>20</sup> *Laws* 730e1–732d7.

<sup>21</sup> *Laws* 733d7–734e2.

What I [the Athenian] say is that the correct life should not pursue pleasures, nor avoid pains entirely, but should welcome the mean (*to meson*) which I now mentioned, calling it gracious; this we all suppose rightly, on the basis of the word of a seer, is the disposition of god itself.<sup>22</sup>

It fits this picture that the plots of land are for people who are temperate, providing them a living which is neither luxurious nor insufficient. The richest are not to be more than four times wealthier than the poorest. The state should not be too rich, since aiming at wealth offends against the priority of virtue. The usual occasions for display in Greek life are forbidden or scaled down: there is to be no personal adornment of gold or silver; marriages, funerals, and ritual offerings must be modest in scope and limited in expense. In Magnesia all forms of trade are regulated to prevent extremes of greed for wealth (or extreme lack of interest; there are to be no beggars).<sup>23</sup> Because people should be used to living moderately in these ways, the Athenian is particularly scornful of the greed which gets some people to aim to make money out of their fellow citizens. There is a marketplace in Magnesia, as a concession to human nature, but it is true that, 'In Plato's view, the market-place is a repulsive institution which destroys good human character.'<sup>24</sup> Seeking profit puts the moderate balance of the soul at risk, because it gets us to inflate the importance in life of material goods, and also because it encourages excessive self-love; the desire to exploit others' needs, especially when you could instead help them, is for him the very worst expression of greed and selfishness. The Athenian finds this particularly obnoxious in the greed of innkeepers who instead of helping travellers exploit their lack of options. In Magnesia exploiting others is to be unthinkable, and living moderately is to prepare the citizens to find it unthinkable.<sup>25</sup>

The virtues of citizens in the ideally virtuous city, then, turn out to be different from those of ordinary Greeks. The self-assertion and frank acceptance of the expressions of (male) sexual desire that are such prominent parts of Greek life have been radically modified. Magnesians are to be fighting fit against enemy attack, but at the same time gentle to one another, and are expected to have unusual powers of moderation and hence effortless avoidance of what in other cities requires strong self-restraint. They are to refrain from aggression and conflict in everyday

<sup>22</sup> *Laws* 792c8–d4.

<sup>23</sup> *Laws* 918c9–919e5; 936b3–c7.

<sup>24</sup> Danzig and Schaps (2001) p144.

<sup>25</sup> *Laws* 918c9–d2.

life, and are to have sex only within marriage, for reproductive purposes.<sup>26</sup> We can see Plato's optimism about the capacities of human nature in his confidence that these arrangements can be frictionlessly accepted as a result of education.

In this regard it is noteworthy that the Athenian, in his accounts of physical and character education, insists that there are competitions to be the fastest, strongest, and best at a number of activities.<sup>27</sup> Plato is here, as often, assuming that he can have the best of both worlds, that citizens will strive to be the best among their peers as they learn physical and musical skills without developing the generally competitive attitude to social and civic matters so prominent in the Greek world.<sup>28</sup> The citizens will have the virtue of *sōphrosunē* that was typical of Sparta (in her better days), but will focus it on avoiding extremes in their way of life in a more mature and less martial way than Spartans did, and so will see this virtue more in terms of mature moderation than in terms of imposed self-control.<sup>29</sup>

Megillus and Cleinias go along with the development of the law code, after their initial acceptance of the approach in the introductory conversation, but the reader cannot but be aware that they started out as representatives of societies in which it is courage and military glory which are most valued, and in which this value is expressed in the whole of the culture. They end up endorsing a society which is, by their initial standards, extremely tame. In Magnesia men are to restrain their aggressive and power-seeking desires, as well as their desires for sex,

<sup>26</sup> Sex is more broadly permitted after reproductive capacity is over. The *Laws* is very unclear about birth control, which is slightly odd considering the importance of avoiding overpopulation in a city where the ancestral plots are limited. The Athenian suggests only sending out colonies, and primogeniture (the latter a radical change from Greek practice) to meet this problem. Aristotle complains about this (*Politics* II, 6, 1265a35–b17).

<sup>27</sup> *Laws* 796d 1–5 (competitions for children learning physical exercises for war and for choral dancing); 829c 2–5, 830 d1–833d7 (contests and prizes for the best performances in the monthly military manoeuvres, and a defence of such competitions and denouncing of the commercial spirit which prevents them in other cities); 834e2–835b4 (choral contests); 943b7–d4 (awards and prizes for military service).

<sup>28</sup> Magnesians are to take part in the sacrifices and competitions at Delphi, Olympia, Nemea, and the Isthmus (*Laws* 950e2–951a4). (The Panathenaic contests at Athens are conspicuously not mentioned.) They are thus to be at a physical level competitive with the best in other Greek states.

<sup>29</sup> Spartans' cultivation of *sōphrosunē* is clearly defective, because of the narrowness of their overall aim in life. Plato does not remark on the similar problem with the kind of *sōphrosunē* he mentions in the *Laws* as to be typical of women.

very strictly. They should ‘compete’ not for what most Greeks compete for—money, status, reputation—but for the ‘prize’ of virtue. This is, obviously, not the ordinary idea of competition in which there are winners and losers; in this competition everyone wins, because the game is not zero-sum. Greeks of Plato’s time, with their notoriously agonistic attitude to many aspects of life, would find this unfamiliar and almost certainly unsatisfying.<sup>30</sup> (Interestingly, Aristotle takes over this idea of the ‘competition’ for virtue, where everyone wins, in his ethical work.)<sup>31</sup>

Citizens of Magnesia are to live explicitly uneventful lives, in which the religious festivals are their only public venues for socializing beyond their immediate neighbourhood. At these festivals they take part in rituals, songs, and dances which are unchanging; the young enjoy the same words and music as the old. They have extremely limited opportunities for personal adornment, or for marking life passages such as marriages, births, and deaths in personal ways. They are completely satisfied with this way of life and regard desire for anything more expressive of individualism as merely selfish. Moderation is what they value in themselves and regard as what they share with god. An Athenian audience would be most struck by the lack of opportunity for individual expression, and Spartans and Cretans would find a city which values military prowess only instrumentally to be unadventurous. But then Plato has been critical of just these aspects of contemporary societies, and if his audience find Magnesia unappealing they should ask whether this reflects on Plato or on them. Cleinias and Megillus are satisfied and, given what they stand for, that is enough for Plato in this work.

## Law and Virtue

The *Laws* begins with a conversation three books long before the project of the law code is introduced; in this conversation we are introduced to a

<sup>30</sup> *Laws* 729d4–e3, where competing at Olympia is inferior to competing to be outstanding in obeying the laws; slightly later (730d5–6) the man who not only obeys the laws and refuses to let others get away with wrongdoing, but also helps the officials in enforcing the law is to be proclaimed the ‘great man’, winner of the prize for virtue. Cf 839d7–840e7, where the Athenian claims that the fact that athletes abstain from sex when training for a competition shows that it is possible for young Magnesians to abstain also in order to obtain a far finer victory than an athletic one, namely victory over pleasure.

<sup>31</sup> *Nicomachean Ethics* 1169a8–11.

new methodology in which the good society, where the citizens live happy lives because they live them virtuously, is presented not from philosophically argued principles in a top-down way but built up in ways that are informed by experience. The Athenian takes on board the point that most people see their motivations as coming down to seek pleasure and avoid pain. He plans Magnesia as an ideal combination of the best features of Sparta and Athens and he argues from history for the advantages of a society with the single overall aim of the priority of virtue, but with power spread in a way avoiding its being gathered in a single source. Magnesian life is in many ways like that of ordinary Greek farmers of Plato's day.

Yet it is also, as we have seen, in many ways radically different. Plato goes beyond the idea of obeying actual established laws, and formulates a view of the world which establishes the idea of law with an objective basis in the structure of the cosmos. Accordingly, the virtues encouraged by obedience to and understanding of these laws turn out to be different from ordinary Greek virtues; the virtues structuring Magnesian life will be primarily those of 'temperance' and cooperation, leading to a way of life utterly different from that of Plato's day.

Has Plato changed direction over the course of the long work? How does such a radical change of values come out of a project rooted in taking political experience seriously?

Plato's project in the *Laws* is what it is in the *Republic*: to represent a *good* society, where people live happily because they live *virtuously*. Kallipolis and Magnesia are both ideals, and the two works differ in the ways we are to come to comprehend, and try to achieve, these ideals. Although in the *Laws* the Athenian is trying to get traditionalist old men to enlarge their ideas of a good city by starting from their own cultures, it is a *good* city he is encouraging them to think of, and no more than in the *Republic* can this be achieved by some tweaking of existing arrangements. Both the city, and the citizen, must adjust their priorities radically so that virtue has priority over other values. The goal is the same in both works, although the methodology differs.

### 'Platonic Pessimism?'

The *Laws* is sometimes taken to show that Plato in his old age despaired of the capacities of humans to live well. This is a familiar charge of

‘Platonic pessimism’. It is a difficult point to discuss, as it can mean several things, and I will mention only a few of them here.<sup>32</sup> Does it mean that Plato is, in his old age, more pessimistic than he was in the *Republic* about the capacity of human nature to live a good, happy life? Socrates in the *Republic* is far from confident that Kallipolis could ever come about; this seems actually more pessimistic about actual human nature than the approach in the *Laws*, which bases itself more on features of actual Greek cities. In Magnesia, the citizens are not expected to aim at a Kallipolis level of virtue that would detach them from particular concerns; but they are considered capable of achieving a high level of self-control and cooperation. In general, a reduction in the level of virtue that one supposes that humans are capable of will go with an increased confidence that they can actually achieve it; pessimism that anyone could have the role of the guardians in the *Republic* goes with optimism that the whole citizen body could achieve a level of virtue that would enable them to live happily as fellow citizens. The change from Kallipolis to Magnesia can be seen as increased pessimism about citizens’ ability to achieve ideal virtue, but is better seen as increased optimism about citizens’ ability to achieve a real improvement, even if less than ideal virtue. Regarding ideal virtue as unachievable, as the Athenian does, can be seen as realism rather than disillusion, and it leads to concern with the virtue of all citizens rather than that of an elite few.

Increased pessimism might be seen in the insistence that people’s lives be dominated by laws, as though this showed lessened confidence in their capacity to live well without this. But, as we have seen, the presence and role of laws are not radically different between *Republic* and *Laws*, except that in the latter the Athenian has confidence that all citizens, not just an intellectually elite few, cannot merely live by laws but understand them and the ideals that they are intended to promote. The *Laws* is not retreating from virtue to mere law abidance, but developing a more nuanced account of virtue as developed in a framework of law. Once we see this, we should be more cautious about seeing ‘Platonic pessimism’ in the *Laws*’ detailed account of laws; it is not a pessimistic attempt to keep people in order in default of anything better.

<sup>32</sup> In thinking about this issue I have been helped by conversations with Jeremy Reid.



The *Laws* is not an attractive dialogue; the prose is often unnecessarily dense and crabbed, and was found so even in the ancient world.<sup>33</sup> The lines of argument are sometimes hard to discern and there is little of what we expect as 'philosophical' argument. Plutarch, a Platonist, admits that 'Few of us read the *Laws*.'<sup>34</sup> Philosophy is mentioned only twice in the entire twelve books.<sup>35</sup> But, as we have seen, this represents not a detachment from philosophy, or a senile abandonment of it, but a new method of constructing an ideal city where people can live the good and happy life. Readers have also been repelled by the *Laws*' harshness in many passages, particularly in the penal code, and this has sometimes been seen as a reactionary retreat from more enlightened views. But the Athenian retains the view that going wrong is not something that anyone does willingly, and the penology, while complex, is still seen in terms of benefit and education rather than retaliation. The harshness is indeed there, but while it is often appalling it is not a concession to the authority of mere force.

The *Republic* has always been, and will continue to be, Plato's more popular work, but the *Laws* is arguably the more fruitful work in terms of political ideas, either explicitly or in embryo. There is the insistence that a society should have the overall aim of fostering happy lives for its citizens, together with awareness (lacking in the *Republic*) of combining this with the insistence that it is knowledge which entitles someone to political rule. There is the insistence, found already in the *Republic*, that such a shared aim needs to be fostered by an education common to all citizens and forming their characters as well as conveying skills. In the *Laws* there is more. There is the claim that to produce virtuous and so happy citizens a society should have institutions which prevent concentration of power in a single source, and do so by guaranteeing the dispersal of political power. There is the idea of a society of political equals where citizens 'rule and are ruled' in turn. There is the idea that citizens learn to live virtuously by obeying their laws, where these are

<sup>33</sup> Lucian has Zeus, in *Icaromenippus* 24, complain that he is neglected, so that his altars are 'colder than Plato's *Laws* or Chrysippus' logic'. 'Cold' here has the force of our 'dry', with the implication of 'boring'.

<sup>34</sup> *On the Fortune or Virtue of Alexander* 328e.

<sup>35</sup> 857d2, within the analogy of the free doctor and patient; 967c8, where poets are said to abuse philosophers for their views about the nature of the heavens. In neither passage is the nature of a philosopher directly brought into the account of Magnesia.

good laws, but only if they understand the point of the laws and the ways that these structure good ways of life, in which the virtues, rather than other character traits, are encouraged. There is insistence throughout that in a society where people are cooperative and self-controlled, old people will be valued and honoured. There is the insight that citizens' focus on common goods is compatible with keeping loyalty to family units and allowing some aspects of property ownership. There is recognition that regulation of property and money can avoid gross inequalities between citizens without destroying the types of family continuity through inheritance common in Plato's day. There is the claim that the virtues of a citizen must have a basis in a world view that most people have a general idea of, but which only a minority can fully understand (although they can, if needed, convey that understanding). There is the claim that actual laws, if they are to have the status of anything more than the products of changing political compromise, must align with an objective law, the understanding of which requires grasping a larger world view. And alongside unrealistic and invasive regulations there are a few minor insights useful even today. Hunting or fish harvesting in safe, undemanding ways do not bring out the same qualities of character as actual hunting for food. Buying and selling is greatly improved when there is no bargaining.

The *Laws* contains some very harsh, and in some cases reactionary proposals, particularly about slavery and citizens' relations to non-citizens. The death penalty is freely used in the law code, and the regulations comprehensively treat citizens in paternalistic ways. But it is a mistake to think of the work as merely regressive, a disillusioned flight from Plato's earlier ideas. It is a fresh attempt, after the *Republic*, to think about the nature of a good society, and arguably a richer one. Although it did not enter the mainstream of ancient or mediaeval political thought, it found resonance in two later philosophers writing in utterly different societies, and their responses to its ideas are interesting in themselves as well as sharpening the outlines of Plato's.

# 7

## Cicero on Natural Law and Ideal Laws

Cicero is the figure in ancient philosophy who first, to our knowledge, takes up the specific project that Plato develops in the *Laws*; this is in his unfinished *On the Laws* (*De Legibus*). There is a considerable gap, however, between Plato and Cicero, during which Plato's project was taken up in quite different ways by his pupil, Aristotle, and by the Stoics. Plato's ideas come to Cicero both through the *Laws*, which he clearly knows well, and also through the Stoics, so we need to look briefly at these developments before turning to Cicero himself.

### Responses to the *Laws*: Aristotle

Aristotle in the *Politics* criticizes the *Laws* (along with the *Republic*) in Book 2 chapter 6, and his own unfinished sketch of an ideal city in Books 7 and 8 owes much to Plato's work. We do not know what the relation is between criticism and positive development. In the critical passage Aristotle complains that the *Laws*' provision of two houses per family, one in the city and one on their farm, is an awkward arrangement; in the sketch of his ideal city he adopts it. So there are clearly changes of mind between the two passages, and it is natural to suppose that the criticism is earlier; but the change could equally well be the other way round.<sup>1</sup>

Clearly there is a close relation between the *Laws* and the last two books of the *Politics*; we can see this from the many similarities, together

<sup>1</sup> *Politics* 1265b24–6 makes the objection that it is difficult to run two households; 1330a14–23 requires in the ideal city, as a matter of fairness, that each citizen have a house in the countryside, which would be threatened in an invasion, and also a safer town house; this spreads risk in case of an invasion and enables more impartial discussion about that among citizens.

with Aristotle's defence of some differences. It is tempting to see Plato taking ideas from Aristotle, or Aristotle taking ideas from Plato; but neither position does justice to the nuanced relation between the two philosophers. It is more promising to see both the *Laws* and *Politics* 7–8 as the result of years of discussion and mutual influence between Plato and Aristotle during the years Aristotle was a member of the Academy.

Aristotle does not give a sketch of a specific ideal city like Magnesia, but examines the conditions that are needed to enable the production of 'the city we most wish for'.<sup>2</sup> In accordance with his sensitivity to the differences between cities that are due to factors like size, situation, prosperity, and the particular character of their history, Aristotle does not follow Plato in making definite demands about aspects of an ideal city's make-up.<sup>3</sup> He does not, for example, as Plato does, lay down a specific number of family plots of land; rather, he points out, at a more general level, that a city needs to be the right size to be self-sufficient and surveyable, with the number of citizens neither too many nor too few for this, and he leaves the details to be developed in accordance with local information in each case.

Aristotle shares with Plato the ideal of a city where the citizens live happily because they live virtuously. Individuals and the city will be both happy and virtuous. (His nuanced discussion of the virtue and happiness of individuals is arguably not well integrated into the admittedly unfinished work.) He shares with Plato the view that such a virtuous life is incompatible with a life dominated by the demands of work:

Since what we are doing is investigating the best constitution, and this is the one in accordance with which a city would most be happy—and as for happiness it was said earlier that it is impossible for it to exist apart from virtue—it's plain from this that in the city which is governed in the finest way and possesses men who are unqualifiedly just (not only in relation to the constitution) the citizens should

<sup>2</sup> *Politics* 1325b35–36. The conditions are called *hypotheses*, assumptions. The important phrase *tēs . . . kat'euchēn . . . poleos* is translated variously. Some translate 'the polis of our prayers' (Miller), since *euchē* can often be translated as 'prayer'. Here, however, that is unsuitable, because ancient Greek prayer differs so radically from the one generally assumed today, at least in the monotheist religions. Better are 'the city . . . according to our highest hope' (Kraut 1997) or 'the ideal city-state' (Reeve 1998). I have gone with the thought that *euchē* has a suggestion of wishing as well as hoping.

<sup>3</sup> Cf. *Politics* 1331b18–21: 'But it would be useless to spend time now on details, and talking about such things [town planning, in this case]. It is not thinking up these things which is difficult; it is doing them.'

not live a life of an ordinary worker or someone with a trade. Such a life is ignoble and hostile to virtue. Nor should people who are to be citizens be farmers, for they need leisure both for the development of virtue and for political actions.<sup>4</sup>

Plato envisages citizens as having the 'leisure' to live virtuously, participating in the life of the city, because they run farms on which the work is done by slaves. Crafts are carried out by metics (residents who are citizens of other cities), and there is no group of citizens made up of the urban poor. Aristotle shares the view that citizens need 'leisure' to participate in the social and political life of the city; 'leisure' here is, of course, not holiday time or time for trivial activities, but time that is your own, not constrained by work to be done for others and by their timetables. He has a different solution from Plato's to the need for such 'leisure'. He includes in the city farmers who do the work on their farms, and craftsmen, and he concedes the need to allow for a navy, where the sailors would be landless people. But all these people are *in* the city but not 'parts' of it. The parts of the city are the citizens, since they are the reason for the city to exist and be run as it is; the others' value to the city consists in enabling the citizens to live a life of 'leisure'. Craftsmen, working farmers, and presumably the urban poor will not be citizens and will not even share the civic agora; they will be restricted to a commercial agora.<sup>5</sup> This is problematic for Aristotle, since as a result large numbers are socially and politically excluded from citizenship who do not share what Aristotle takes to be the natural defects of the excluded slaves and women.<sup>6</sup>

Aristotle in his sketch of the conditions for an ideal city often follows Plato's lead, with some corrections, as when he argues that it is a mistake to ignore sea power, or that it is foolish to build a city without walls, or that crying and acting out in very young children should be allowed rather than soothed away. In the last case he actually cites the *Laws*,<sup>7</sup> and there are many passages where the influence of the work is clear.

Details apart, Aristotle follows Plato's conviction that virtue has to be learned, and in ideal conditions it would be learned through a system of

<sup>4</sup> *Politics* 1328b33–1329a2.

<sup>5</sup> See Schofield (1999b) for the significance of the two agoras.

<sup>6</sup> See Annas (1996) for this problem.

<sup>7</sup> *Politics* 1335b34–9 (disagreeing with *Laws* 790b8–791b2); relationship to the sea is discussed at 1327a11–b15 (disagreeing with *Laws* 704b6–707d11); city walls are defended at 1330b32–1331a18 (disagreeing with *Laws* 778d3–779c5).

public education—something for which he praises the Spartans,<sup>8</sup> though elsewhere in the work he repeats Plato's charge that to focus citizens on the single aim of military dominance, as Sparta did, fails to make them virtuous—and he adds that historically it has led to Sparta's fall.<sup>9</sup> Aristotle's long account of education for virtue is unfinished, but it clearly runs along similar lines to Plato's accounts in the *Republic* and *Laws*, with the Aristotelian modification that what are recommended are types of policy rather than specific requirements. Aristotle also insists on the importance of the virtue of *sōphrosunē*, 'temperance' or moderation, along with that of justice: people in his ideal city are to be cooperative and restrained, as are Magnesians (though presumably not to the same degree):

War forces people to be just and temperate, while enjoyment of good fortune and being at leisure in peacetime makes them arrogant. A great deal of justice and a great deal of temperance, therefore, are needed by people who are thought to be doing best and to enjoy everything regarded as a blessing.<sup>10</sup>

What in all this is the role of law? Aristotle of course thinks of an ideal city as having laws, and in the account of education he frequently mentions regulations, and punishments for offenders. He says that 'law is a kind of ordering (*taxis tis*),<sup>11</sup> and regards the laws, and norms generally (*nomima*) as the organizing framework for the development of virtue, and so as especially important in the common education that citizens will receive in an ideal city—education of character to enable them to live virtuously.<sup>12</sup> There are, however, two departures from Plato's approach to law and virtue in the *Laws*. Firstly, Aristotle takes a more practical approach to law; in the context of political organization he does not see the need for a metaphysical background in order to understand the nature of law, and so does not provide one (not just here, but in the *Politics* generally).

More importantly for his ideal city, after taking so much else from the project that we see in the *Laws* Aristotle does not take over Plato's innovative idea of educative and persuasive preambles to the laws.

<sup>8</sup> *Politics* 1337a31–3.

<sup>9</sup> *Politics* 1333b5–35; 1338b9–38.

<sup>10</sup> *Politics* 1334a25–30.

<sup>11</sup> *Politics* 1326b29–30.

<sup>12</sup> Cf. Hitz (2012). In Book 5 of the *Nicomachean Ethics* we find the laws 'ordering' and 'forbidding' certain kinds of action (1129b22–9, 1130b11–25).

Both take it that obedience to the laws is central to education for virtue, along with a programme of education, shared by all, to encourage the development of citizen virtues. Aristotle, however, does not take over preambles, with their aim of educating the citizens in the aims of laws, and thus of getting them to internalize the point of obeying those laws. This might be viewed as a minor difference, since both accept the importance of obedience to the laws and common education for citizen virtue. But in both respects Aristotle's general view of citizen virtue differs. He does not share Plato's insistence on *slavery* to the laws; of course he thinks that laws should be obeyed, but he has a far lower view than Plato does of the benefit for virtue of Spartan-type promptness to obey the law and unwillingness to envisage even reflecting about it. (This fits with his low estimate of the value of Spartan culture compared with Plato.) Further, he thinks of the common education as adequately doing the job of producing in the citizens understanding of their laws and the virtues they promote, and of producing further understanding of the goodness of the way of life lived within the laws. Obedience to the laws and education in the common system leave no gap needing to be filled by preambles. In this Aristotle is nearer to the *Republic* than to the *Laws* on education for citizen virtue.

It is likely, then (though of course this is just a suggestion), that Aristotle took the preambles to be unnecessary, given the common education of character. He may have thought of the life of good citizens more holistically than Plato in the *Laws*, and held that in a city with good laws, someone with the right kind of physical and cultural education (the kind that he begins to sketch) would be able to form a reasonably determinate idea of a good life in general, and would be able to form the virtuous attitudes to moneymaking, inheritance, violence, and sex without having to learn separately from a number of laws what is the virtuous attitude to each of them. If his thinking was on these lines, he may even have thought that having separate preambles for marriage, inheritance, violence, and so on could be misleading, suggesting that you develop distinct attitudes and dispositions for these areas, something which might leave you puzzled when a situation you meet requires you to negotiate between them. Aristotle sees obeying the requirements of the law as the beginning of virtue, at least in a good city, but he cuts out the role of Plato's preambles, and develops an account of virtue in the framework of law which links with the *Republic* rather than with

the *Laws*.<sup>13</sup> Plato's distinctive view of the relation of law and virtue in the *Laws* finds no resonance in Aristotle, however great are other similarities in their approaches to building an ideal city.<sup>14</sup>

## Responses to the *Laws*: the Stoics

Early Stoic political thinking took the form of a *Republic* composed by the founder, Zeno, a work passed over by later Stoics uncomfortable with its allegedly extreme positions (its content and purpose are obscured by our sources for it).<sup>15</sup> Starting from Chrysippus, the 'second founder' of the school, we find that the Stoics move on from concern with ideal forms of the Greek polis, and their account of law as grounded in nature is integrated into their account of universal reason in the cosmos.<sup>16</sup>

The Stoics are deeply influenced by Plato's account of cosmic reason in *Laws* 10, and also by his account of the nature of the world in the *Timaeus*. For a number of reasons the Stoics reject Plato's separation of divine reason from nature: for them divine reason *is* nature in its active aspect, so that reason is not opposed to nature; in fact the Stoics say that 'reason', 'nature', 'god', and 'fate' refer to the same thing. The active principle of the cosmos can be studied from different perspectives. From that of logic, it is reason in its intellectual development in the patterns of thought and speech, including logic in our sense; from that of physics and metaphysics it is the cosmic fire (later a substance called *pneuma*) which informs and organizes the structure of the world and the structures of the items in the world in an overall harmonious and providential way. From the perspective of ethical and political thought the same principle is *natural law*, reason in the cosmos as it presents

<sup>13</sup> In *Nicomachean Ethics* Book 5, his discussion of justice, he remarks that the laws have something to say about 'everything', and that they command us to do the actions of a virtuous person and not to do those of a vicious person. For example, they command us to do the actions of a courageous person, such as not deserting one's post, running away in battle, or throwing down one's weapons (1129b14–25). The laws seem to be the intermediaries which direct us to do the kind of action which in our society tend to promote given virtues (if they are good laws). Aristotle sees this as straightforward, without the need for preambles explaining why the laws promote or forbid these particular actions.

<sup>14</sup> See Girardet (1989) for a discussion of the differences between Aristotle and Cicero on the idea of law being grounded in nature.

<sup>15</sup> See Schofield (1991).

<sup>16</sup> See Annas (2007b) for the relation of the parts of Stoic philosophy—logic, physics, and ethics—to the overall system.



itself to us humans. It is this which Cicero explicates in the first book of *On the Laws*. Cicero is thoroughly trained in Greek philosophy, and knows that this perspective is one among those in which we study the active cosmic principle, but since we cannot do everything at once he leaves explication of the metaphysical aspect of the principle aside here. (He expounds it in a later work.) *On the Laws* is, as we shall see, deeply influenced by Plato's *Laws*, but Cicero does not hesitate to 'update' the *Laws'* view of divine reason in the cosmos; it no longer needs to be seen as opposed to nature, once nature itself is seen as having a divine, active aspect.

Chrysippus wrote a work *On Law* whose opening was widely quoted:

Law (*nomos*) is king of all things, human and divine. Law should preside over what is fine and what is shameful, as ruler and guide, and hence be the standard of right and wrong, commanding what they should do to beings with political nature, and forbidding them to do what they should not do.<sup>17</sup>

Cicero produces a version of this definition at *On the Laws* 1, 18, and also at *On the Republic* 3, 33. Law is seen as universal, operating in the wider cosmos as well as in human society, organizing all spheres of nature, including humans, in a way which orders and directs them. The Stoics not only think of law in nature as universal, they focus more than Plato or Aristotle did on its *directive* aspect as essential to its nature.

The first book, and part of the second, of Cicero's *On the Laws* is the best-developed account that we have of the Stoic account of natural law, even though it is not there directly ascribed to the Stoics, and is presented as part of a rethinking of Plato's project in the *Laws*.

## Cicero's *On the Laws*

Cicero wrote *On Oratory*, *On the Republic*, and *On the Laws* in the late 50s BC, the period after his return from exile, when he was frustrated by his lack of political influence under the 'First Triumvirate' of Caesar, Pompey, and Crassus, whose unconstitutional power pre-empted traditional forms of political activity. *On the Republic*, a dialogue set in the past between great Roman historical figures, was published and became

<sup>17</sup> See Dyck (2004) 109–10 for the various sources of this definition.

well known; large parts of it are unfortunately lost. *On the Laws*, however, was probably never finished.<sup>18</sup> We have the first two books and a large part of the third, and a few fragments.

Cicero spends a great deal of Book 1 of *On the Laws* giving an account of natural law, natural justice, and virtue. There is a brief recapitulation in Book 2, focussed more specifically on law, and a short reference back to the account at the start of Book 3. This account is clearly Stoic in content, although not ascribed directly to the Stoics. In what ways, then, does *On the Laws* present itself as related to Plato's *Laws*?

### *Cicero and Plato*

The dialogue begins with Cicero, his brother Quintus, and his friend Atticus conversing in a country setting at the Cicero family estate at Arpinum. Atticus suggests to Cicero that, just as 'your beloved Plato . . . a man you admire, exalt above all others and cherish greatly' wrote the *Laws* after the *Republic*, so Cicero should, after his *On the Republic*, write about laws. Cicero responds:

So do you want us to do this? Just as he, with the Cretan Clinias and the Spartan Megillus (as he describes it) spent a summer day among the cypress trees and forest paths of Cnossus, frequently pausing and sometimes resting, talking about political institutions and the best laws, so let us walk and sometimes rest among these tall poplars on this green and shady bank, and enquire about these same things, more fully than the law-courts require?<sup>19</sup>

Later (2, 14) Cicero describes his work in just these terms. *On the Laws* is conceived as a literary work on the model of the *Laws*; like the conversation in Plato's work it is to be represented as taking place over a single day.<sup>20</sup> The conversation between three people, two of them quite unin-  
tellectual and one more educated and philosophical, recalls the set-up of the *Laws* more than it does the historical conversation of Cicero's *On the Republic*, peopled by famous Romans of the past. (It also underlines Cicero's treatment of the Athenian as straightforwardly standing in for Plato's own views.) The conversation is more interactive and lively than in Cicero's later philosophical dialogues—ironically more like earlier

<sup>18</sup> For the dating, composition, and textual history of *On the Laws*, see Dyck (2004).

<sup>19</sup> *On the Laws* 1, 15. <sup>20</sup> *On the Laws* 2, 69.

Platonic dialogues than like the *Laws* itself.<sup>21</sup> But Plato's work provides more than a literary model. As well as the opening passage, Cicero says at the start of the third book, 'I'll follow, then, as I have from the start, that divine person whom I perhaps praise oftener than is required because I am moved by admiration for him.'<sup>22</sup> And earlier he calls Plato 'the wisest Greek, and by far the most learned'.<sup>23</sup>

Cicero sees himself as producing an account of ideal laws, and so doing in his own context and way the same kind of thing that Plato is doing in the *Laws*. Of course his project takes a different form, just as his work *On the Republic* is a very different way of sketching an ideal state from Plato's in the *Republic*. Still, Cicero has clearly read the *Laws* carefully, and seems to be writing with a copy of it beside him; he translates two quite recondite passages closely. Further, before the first set of laws, on religion, he gives a short speech about the importance, if citizens are to keep their oaths and promises, of their believing in the providential goodness of the gods. He ends this by calling it the 'preamble' (*prooemium*) to the law, in Plato's term, and indeed it contains ideas from the long passage forming the preamble to the impiety law in *Laws* Book 10.<sup>24</sup> Cicero does not use preambles in the way that Plato does, but we shall see that he replaces their function in a way that Aristotle does not.

Cicero's references to the *Laws* continue through the three books of *On the Laws*. He refers to Plato's recognition of the importance of music and the need to ensure that musical genres are not changed, since change in these will lead to change of lifestyles and eventually institutions.<sup>25</sup> This reference is later picked up, and Cicero modifies his acceptance of it; it is not so much changes in music that matter, he claims, as changes in the

<sup>21</sup> There is even a meta-dialogical joke at 3, 26, where Cicero points out to Quintus that, to move the discussion along, Quintus should be making responses such as, 'True', or 'I agree'. Quintus replies that he does *not* agree, but that they should move on anyway.

<sup>22</sup> 3, 1. Atticus adds that he himself is allowed to esteem Plato highly even by his fellow Epicureans (though this seems unlikely; Atticus puts his Epicureanism on hold for this dialogue (cf. 1, 21) and even in this passage admits that Epicureans don't like anyone to be praised save Epicurus).

<sup>23</sup> *On the Laws* 2, 39.

<sup>24</sup> *On the Laws* 2, 16.

<sup>25</sup> *On the Laws* 2, 38, 39. This could, of course, be a more general reference to the *Republic* as well as to the *Laws*, but there seems to be a reference in 29 to *Laws* 700a7–701d3, which also talks of audiences which in the past listened silently but are now rowdy.

character and habits of the upper classes.<sup>26</sup> There is a specific reference to Plato's claim that the gods do not receive gifts from people wicked in soul.<sup>27</sup> When he comes to limitations on private dedications to the gods, Cicero gives a close translation of a substantial part of the Athenian's directives about dedications.<sup>28</sup> Similarly, when he comes to laws about funerals and monuments to the dead, Cicero follows the Athenian closely for a paragraph.<sup>29</sup> After introducing the need for magistrates, Cicero develops the thought that the good ruler will be someone who also knows how to obey, and the obedient citizen is also someone worthy to have others obey, a passage suggestive of the *Laws* on ruling and being ruled, especially as he goes on to quote Plato on the 'Titanic' character of people who are recalcitrant in obeying officials or laws.<sup>30</sup>

Still, Quintus comments at one point that he is glad that Cicero is dealing with subjects different from Plato's. 'Nothing less like Plato than what you earlier said, or this very preface; there is only one thing you seem to me to imitate, his style of writing.'<sup>31</sup> Cicero replies that as for the style, he can only wish to imitate that, and that he is indeed 'being himself' and not merely translating Plato's ideas. Apart from the fact that Cicero is not, in fact, imitating the style of the *Laws*, but that of earlier Platonic dialogue, this might suggest that Cicero does, like Quintus, see his project as entirely different from Plato's. Quintus, however, mostly serves, together with Atticus, to put forward positions which Cicero in the dialogue will argue against. And it is clear that at the level of producing ideal laws, which are envisaged as being actualized in ideal conditions,<sup>32</sup> Cicero's project can reasonably be seen as similar to Plato's. They are both concerned with laws that will produce citizens who will live virtuously, and so happily, and hence with the relation of law to virtue. Cicero makes a point of saying,

I think I must do what Plato did, who was most learned and also the most profound of all philosophers. He first composed a book on the state (*Republic*), and then wrote separately about its laws. Zaleucus and Charondas also did that when composing laws for their countries, for the sake of the state, not just theory

<sup>26</sup> *On the Laws* 3, 32. <sup>27</sup> *On the Laws* 2, 41; see *Laws* 716d4–717a3.

<sup>28</sup> *On the Laws* 2, 45, which renders *Laws* 955e5–956b3.

<sup>29</sup> *On the Laws* 2, 67–8, rendering *Laws* 958d3–959a1.

<sup>30</sup> *On the Laws* 3, 5: the reference to Titans is to *Laws* 701b, but the idea of ruling and being ruled is central to the *Laws*.

<sup>31</sup> *On the Laws* 2, 17.

<sup>32</sup> See Powell (2001), (2013), Atkins (2013b).

and enjoyment. Plato imitated them, surely, in holding that it is the function of law to persuade, not to compel everything by force and threats.<sup>33</sup>

It is not just having ideal laws that matters, but being able to recommend them to those who are to live under them, so that their obedience is for the right kind of reason. Cicero thinks it worthwhile to follow Plato of the *Laws* on this.

## *On the Laws: Conventional Law and Natural Law*

The statesman's aim, according to Cicero, is the virtue and happiness of the citizens.

It is obviously agreed that laws were invented for the security of citizens, the safety of states and the peaceful and happy life of humans, and that those who first enacted such regulations were showing their communities that they were going to write down and enact measures which, when decreed and put into force, would enable them to live virtuous and happy lives.<sup>34</sup>

The citizens' happy life, *beata vita*, is also the aim of the ideal constitution in *On the Republic*.<sup>35</sup> In these two works the relation of virtue to happiness is not specified further. When Cicero moves to develop this topic later in *On the Laws* he is recalled by Quintus to law,<sup>36</sup> and it is explored only in the later philosophical writings, especially *On Final Ends*. It is taken to be too theoretical for a work on political philosophy in which the interlocutors are unintellectual people, and Cicero assumes a general educated consensus that happiness requires virtue, without going into the theoretical issues.

Cicero does not relate this grand overall aim to his laws as he specifies them. Although he gives an introduction to the laws on religion in Book 2 which is heavily indebted to *Laws* 10, and calls it a Platonic 'preamble', he does not take over Plato's preambles with their aim of educating the citizens persuasively to understand the point of the law and thus

<sup>33</sup> *On the Laws* 2, 14. It is not clear why Cicero thinks that Plato is imitating these obscure lawgivers. Indeed, Quintus refers to a claim that Zaleucus never existed.

<sup>34</sup> *On the Laws* 2, 11.

<sup>35</sup> *On the Republic* Fragment VI of Book 5; cf. also Fragment III of Book 4.

<sup>36</sup> *On the Laws* 1, 56–7. Cicero there admits that he willingly digressed from the main topic.

obedience to it as constituting an aspect of the virtuous and happy life. Indeed, he explicitly presents his laws as a product of the past: they are improved versions of Roman law, put forward in archaizing language.<sup>37</sup> The explanations they receive, once put forward, fill out the background for them rather than indicating ethical aims that obedience to them will produce. It is rather the long account given of natural law in Book 1 which is meant not only to give his laws objective backing but to indicate how they are to be recommended to the citizens. 'Since ways of life are to be implanted, and not everything is to be sanctioned by written law, I will seek the root of justice (*ius*) in nature, which we are to take as our guide as we lay out the whole discussion'<sup>38</sup> (italics mine).

The account in Book 1 argues in a Stoic way that law, and its evaluative force, are grounded in nature. Elsewhere Cicero makes isolated appeals to the force of natural law. In *On Duties*, for example, he makes the point that the law of nature forbids what convention may fail to forbid;<sup>39</sup> the law of nature is similarly appealed to in other works,<sup>40</sup> and in the heated rhetoric of the civil war he appeals to natural law to support the claims of Brutus and Cassius to disputed provinces.<sup>41</sup> Book 1 of *On the Laws*, however, differs from casual references in being a carefully worked out and coherent argument (though the text has some unfortunate gaps).

The nature of law must be sought from human nature, Cicero begins, going on to define it as 'highest reason, inherent in nature, which enjoins what ought to be done and forbids the opposite. When this same reason is secured and completed in the human mind, it is law.' Law is also 'a force of nature, the intelligence and reason of a wise person and the criterion of justice and injustice'.<sup>42</sup> The view is not ascribed directly to the Stoics, but it fits with Stoic philosophy in a way it does not fit with

<sup>37</sup> Cf. Zetzel (1999) p xxiii: 'The laws that Cicero presents are written in a style meant to reflect the conservative and archaic language of Roman legislation; some of them are in fact drawn from the laws of the Twelve Tables (and thus are a valuable source for early Roman law). They are, however, filled with false archaisms and bogus reconstructions.'

<sup>38</sup> *On the Laws* 1, 20.

<sup>39</sup> *On Duties (De Officiis)* 3, 69.

<sup>40</sup> *On Invention (De Inventione)* 2, 65; *Tusculan Disputations* 1, 30; *Pro Milone* 10, where the law that we know without having to learn it tells us the legitimacy of self-defence.

<sup>41</sup> *Philippic* 11, 28, where he claims that law is right reasoning drawn from the gods to support the legally outrageous claim that Cassius is ethically entitled to take over the province of Syria, which he admits was allocated to somebody else.

<sup>42</sup> *On the Laws* 1, 17–19.

that of any other school, though it is ascribed to some of the 'learned'.<sup>43</sup> This is an account of laws which presents it as essentially *directive*, with the interesting result that Cicero leaves it till the third book to make the point that the law has authority, *imperium*;<sup>44</sup> he is not worried that citizens might fail to see the law as a command to be obeyed strictly and without argument, and he sees no need for Plato's provocative metaphor of slavery to the laws.<sup>45</sup> This is no doubt due to the Roman background where strict and unflinching obedience to law, and assumption that it has authority, are assumed.

Cicero starts from reason, which is what distinguishes humans from other animals. He points to its impressive aspects—memory, intelligence, judgement—as indications of its divine status, namely as what makes all humans members of the community of rational beings, which are humans and gods. Humans share in reason as in a divine cosmic force which rules the entire cosmos by imposing rational order in everything. The Stoic view of reason as the active providential force in the world and present in human minds is presented here from the perspective of our sharing a community with other humans, as rational beings. We also share in community with the gods, since reason enables us to understand the divine rational construction and active workings of the universe of which we are parts. It is the ethical implications of this view which are developed here, as being what is relevant to understanding law.<sup>46</sup> Later, Cicero develops the Stoic view of reason in the universe from the metaphysical perspective in the second book of his work *On the Nature of the Gods*, but it is assumed here, since this lengthy and complex material would involve too large a digression here.<sup>47</sup>

<sup>43</sup> This is not, however, a good reason for holding that Cicero is weakening the Stoic account of law (as has been argued; see 180–81).

<sup>44</sup> *On the Laws* 3, 3.

<sup>45</sup> Although there is a rhetorical claim in the speech in defence of Cluentius that 'the reason we are all slaves to the laws is so that we may be free' (*Pro Cluentio* 146). But this is not part of a serious theoretical argument.

<sup>46</sup> A passage in Marcus Aurelius' *Meditations* (IV, 4) makes the same claim about our common reason leading us to be linked as citizens in a universal community of natural law. Gill's commentary suggests that the similarities suggest that both derive ultimately from Chrysippus on natural law. Marcus in IV, 4 omits the gods as sharing in the community; Gill proposes that this is due to the particular thought being worked through rather than a conscious alteration of Stoic theory.

<sup>47</sup> See Annas (2007b). In the 'preamble' to the religious laws in Book 2 there is, alongside Platonic material, a Stoic argument that will receive extensive treatment in *On the Nature of*

Humans who exercise their reasons can come to share with other humans who do the same an understanding of reason as *directive* in the cosmos and in their own lives, and thus come to see themselves and all humans as sharing in the divine reason that keeps the whole cosmos going. The powerful metaphor for this is that of sharing in a city of gods and men; humans share with one another a comprehension of the divine system of directive reason, and this is seen as sharing in a system of *law*, which is directive reason in its human embodiment. Ethical direction is here seen as *demanding*, as *requiring* us to go in an ethical direction. Cicero's Roman conception of law includes in it the authority to demand, so a community of all rational humans is one that recognizes *demands* made of everyone, not just of a particular community. Although we are all, as being human, rational, we do not experience these demands that reason makes of everyone as aligning with our desires; it is experienced as demanding of us to go in directions that we do not ourselves want to go in. We can improve ethically, and find less tension in following ethical demands, but only the wise person (*sophos*, *sapiens*) whose nature has become completely rational, finds his or her thoughts to align frictionlessly with the demands of reason, and so the demands of natural law made on the community of rational beings.

Humans are in their nature all alike, Cicero continues; it is merely corrupt conventions and beliefs which distinguish us from one another. Differences of culture and language do not make for differences in the ways that all humans can use their rational capacities. '[L]anguage, the interpreter of the mind, differs in its terms but agrees in judgements. There is nobody in any nation who if they get a guide, cannot achieve virtue.'<sup>48</sup> This is a universal claim, not just one about Romans, and it raises an obvious objection, to which Cicero does not here give a strong answer: if we are all fitted by nature to appreciate the force of natural law, why do so many humans apparently fail to do so? Virtue is found in few people, and full virtue only in the wise person, who is as rare as the phoenix; the natural thus seems to be exemplified in the exception rather than the majority, which is odd for a natural phenomenon. Cicero appeals, as do the Stoics, in a general way to the impact made on us by

*the Gods*: things with reason are better than things without, but nothing is better than the cosmos (2, 16).

<sup>48</sup> *On the Laws* 1, 30.



our experiences of pleasure and pain, which misdirect our beliefs about value; these are then supported by the already established mistaken values of our societies, and the ways in which these mistaken values are taught and encouraged by society's institutions, particularly education.<sup>49</sup>

Humans, the account continues, are naturally inclined to recognize that insofar as they follow their rational abilities rather than their individual desires, especially for pleasure, they recognize that the directive force of law, claiming obedience on their part, does not come from the conventional status of actual laws, but is grounded in the nature of things. Further, if law is natural, so is justice; and if justice, then the other virtues. This is not a claim about dependence; natural law and natural justice are parts of the same phenomenon, and neither grounds the other. The point about justice has important corollaries: if justice is taken to exist merely by convention it will be valued merely instrumentally and not for its own sake, and then there will be no basis for any of the virtues to be valued non-instrumentally. Since justice is the fundamental virtue we exercise in relation to others, our entire relation to others will be corrupted and rendered merely instrumental if justice is not valued for itself.<sup>50</sup> Law based in nature, then, is closely connected with a natural basis for justice and the other virtues: law directs us to activities which express and further the virtues.

Cicero says that what he has claimed is agreed to by all philosophers (except Epicureans, whose views cannot remotely be aligned with the others), but a detailed defence of this would be out of place here. He mainly defends natural law not against philosophers' theoretical objections but by appealing to common consensus. He appeals to what he takes to be a universally recognized (if not always practised) recognition that a system of law and justice, and the virtues flowing from this, cannot be based merely on convention. It would be 'insane' to think that convention could actually produce virtue, or make an activity right or wrong.<sup>51</sup> This approach to virtue brings out the demanding more than the aspiring side of virtue.

Why should we accept this? We all naturally have shared conceptions (*intelligentiae communes*) which are latent and unarticulated, but which everyone can develop to the point of achieving knowledge of their

<sup>49</sup> See Graver (2012) on this issue.

<sup>50</sup> *On the Laws* 1, 48–52.

<sup>51</sup> *On the Laws* 1, 45.

objects—provided that we are not sent off the path by divergences of mere opinion, or misdirected by pleasure.<sup>52</sup> We all recognize that the laws of the Thirty Tyrants at Athens were unjust, however proper the procedure for passing them, and we all recognize the vices of people who betray friends or do other shameful things.<sup>53</sup> Cicero is optimistic about our chances of overcoming obstacles to the comprehension of law and justice, even if that is still dim enough for us often to fail to live up to it.

At the end of the book Quintus, after breaking off the diversion about virtue and happiness, says to Cicero (after an unfortunate lacuna) that he is not expecting a review of actual laws, but does expect Cicero to provide ‘laws for living and a way of life’. Cicero replies that ‘since law should correct wickedness and promote goodness, an account of how to live should be drawn from it’.<sup>54</sup> By the end of the exposition, that is, natural law has been presented not merely as right reason telling us what actions to perform and refrain from, but also as encouraging virtues and discouraging vices, and as forming a way of life and the characters of the people who live that life. Natural law, then, has been explicated not merely as directive reason telling us what to do and not to do, but as what structures our actions and forms our character: natural law implies natural justice, and this in turn implies that the rest of the virtues have a natural basis. Given the assumption that it is the virtuously lived life which is the happy life, we can see that natural law is the basis of a virtuous way of life, not merely a system of commands and prohibitions about actions. We can see how this connects to the point about persuading people to obey the law and not merely to be forced to obey it. The laws of the best state will not just be a set of rules and regulations that demand obedience, but will structure a way of life which encourages virtue in the citizens, and so their happy life. Although actual societies tend to discourage virtue and encourage individuals to focus on their desires, Cicero expresses confidence that nobody is so badly situated as not to appreciate the natural basis of law, justice, and virtue.

Cicero does not specify any educational programme by which all citizens can be encouraged to think about their laws and ways of life in this way; he appeals to philosophy to enlighten people about the force

<sup>52</sup> *On the Laws* 1, 26, 27, 30, and 59.

<sup>53</sup> *On the Laws* 1, 42, and 45.

<sup>54</sup> *On the Laws* 1, 57–8; *leges vivendi et disciplinam* in 57; *quoniam vitiorum emendatricem legem esse oportet commendatricemque virtutum, ab ea vivendi doctrina ducatur* in 58.

and role of reason in us and in the world, but not everyone has the time or the inclination for philosophy. Looking towards an ideal past more than Plato does, Cicero seems content to have philosophy enlighten the leading citizens of the best state, leaving most citizens with merely the rudiments; he has more faith than Plato in the good direction given by traditional ways of life which leave it to leading citizens to provide guidance.<sup>55</sup> Presumably most citizens are to stay at a level where their understanding of law and virtue is comparatively unarticulated; nobody, however, Cicero thinks, should fail to realize their objective basis. He holds at any rate that it is open to anyone to draw the right conceptual links between an objectively good system of law, resting on nature rather than convention, and objectively just relations between people, especially people in political communities, and hence with the basis of the virtues which enable people to live together in a happy, flourishing way rather than, as with most actual societies, dysfunctionally. Since it takes a wise person fully to articulate these links, the project of presenting laws persuasively is an important one for a statesman concerned about the citizens' virtue and happiness. It has special appeal for Cicero, who sees himself as the ideal blend of practical political experience and philosophical comprehension, and hence as an improvement on Greek political philosophers who lacked actual political experience.<sup>56</sup>

As has become clear, Cicero's project has links to that of Plato in the *Laws*. Cicero shares the ideal of law as objectively grounded in the nature of the universe, and as taking the form of law in human communities. He takes the authority of law for granted more than Plato does, and because he uses the idea of cosmic reason in its Stoic reworking rather than directly from *Laws* 10, he thinks of objectively grounded law as *natural* law. He accepts the *Laws*' demand that a statesman should present laws

<sup>55</sup> I do not go here into the much discussed question of what Cicero intends by a *rector rei publicae*. I follow Powell (1994), who takes Cicero to intend an equivalent to the Greek *politikos*, and who discusses previous scholarship on the issue.

<sup>56</sup> This is a frequent theme with Cicero; in *On the Laws* it can be found at 3, 14, where he makes an exception for Aristotle's school, which investigated laws and produced one philosopher-politician, Demetrius of Phalerum. Cicero also mentions favourably the later Stoics Diogenes and Panaetius. Earlier Stoics are said to have discussed 'the state (*de re publica*)' but in an unworldly way, suggesting Zeno's ideal state; Plato is apparently said to be in that tradition (in a confusing sentence). Interestingly, two sources omitted here are the two most influential on the present work, namely Plato in the *Laws* and Chrysippus on natural law.

persuasively and not as merely instruments of coercion, and he follows Plato in taking there to be a deep connection between law and virtue: laws should foster virtues in the citizens as part of their role in encouraging citizens to live virtuously, and so happily.

Two points of divergence are significant, and both are due partly to Cicero's Roman background and partly to philosophical developments. Firstly, Plato, for all his appeal to the nature of the cosmos, has in mind laws for a particular kind of political and cultural entity, the Greek polis (Magnaesia and any other like it). Those outside the Greek community and culture of the polis are left out. Cicero's system of law is 'not just for Romans, but for all good and stable communities';<sup>57</sup> his claims are explicitly universal. He is thinking of a universal system of values represented by Rome but in principle applicable everywhere in the world. This universality, assumed throughout, explains the comparative lack of emphasis on natural law as stable, unchanging, and unalterable; these aspects are taken for granted.

Secondly, Cicero goes on to claim that this system of law with universal validity exists already in pretty much complete form, namely in Roman law, which requires comparatively minor adjustments to express what natural law requires. Atticus is pleased that the naturally best laws on religion turn out to be pretty much the religious laws of Numa, the second king of Rome, and Cicero comments that there is little or nothing that needs changing in the Roman laws about magistracies, since the Roman state does in fact have the best constitution. Roman law emerges as having universal ethical authority. Cicero is (obviously) not validating Roman law exactly as it stands in his own day. He is looking back to the Roman constitution as it existed in the better past, which for him is the Rome of earlier history described by the general and politician Scipio Aemilianus, the main figure in *On the Republic*, a Rome which Cicero sees as the ideal mixed constitution. Rome has declined from this ideal state; laws have ceased to be observed properly and faulty laws passed, and in tandem with this Roman virtues have become corrupted. Cicero sees Rome's contemporary struggles and wars as the result of a decline from an ideal constitution and the virtues it produced. His answer to the late Republic's chronic troubles is a return

<sup>57</sup> *On the Laws* 2, 34.

to the earlier ideal constitution and hence to its virtues. Romans should pay attention to the ethical authority of their own earlier, better laws and the virtues produced by living in accordance with them. As it is, they fail to do this because they are over-influenced by their own desires for money and power. *On the Laws* envisages a return, in ideal conditions, to an idealized past.

## A Problem?

This combination of claims to the universal ethical authority of natural law and the establishment, as ideal, of the laws of Rome at a better stage has been the basis for continual worry that there is a tension at the heart of Cicero's project in *On the Laws*. Some, including experts on the text, conclude that Cicero is confused, and that it is the dawning realization of this confusion that leads him to abandon the work. For 'How can the law of a particular state claim universal validity?'<sup>58</sup> On this view, Cicero argues for universal laws of nature but fails until some way into Book 3 to notice that the specific laws of Rome in the past are not identical with these (for they don't fit every place and time) and cannot be straightforwardly derived from them alone. It is difficult to think that Cicero, an intelligent lawyer and educated philosopher, could be making so elementary a mistake at such great length.<sup>59</sup> Cicero indeed notices ways in which his law code takes account not only of the ideal but also of compromises with social and political reality. He makes an exception to his law against night-time rituals for the ancient and respectable Eleusinian Mysteries;<sup>60</sup> and he argues, against his reactionary brother Quintus, that Pompey, in restoring the traditional powers of the tribunes, was right in taking account not only of what is best but of what is

<sup>58</sup> A. Dyck (2004), 410–11. He adds, 'This is perhaps [sic] the most problematical aspect of *Leg.*: in practice the legislation of Books 2 and 3, oriented on Roman institutions, tends to stultify the *universum ius* set up as the ideal in Book 1 with its potential for providing a thoroughgoing critique of existing law.' Cf. Powell (2001) 35: '[T]he law-code of the *de Legibus* is partly a universal code for all well-run states insofar as they conform to the type of the mixed constitution; and partly a set of suggestions as to how things might be improved at Rome. Cicero's apparent failure to make up his mind between these two purposes is, doubtless, confusing.'

<sup>59</sup> As has been noticed by Girardet (1983) and (1989).

<sup>60</sup> *On the Laws* 2, 35–6.

unavoidable (*necessarium*).<sup>61</sup> Points like these have led some scholars to hold that Cicero is weakening the idea of natural law, designing it to have broader appeal to non-Stoics, such as Antiochus, who aimed to integrate Stoic with Aristotelian ideas. If so, he would be seeing natural law as prepared from the start to be compromised in the situations in which it is applied.<sup>62</sup>

A more satisfactory account of *On the Laws* starts from noticing that Cicero nowhere describes or indicates laws of nature as having themselves a law-like form, as though they were alike in form to actual laws which prescribe and forbid certain actions, but, unlike them, universal, stable, and exceptionless. The sole ground for holding this is an early passage,<sup>63</sup> where Cicero distinguishes objects of their enquiry: firstly the nature of law, secondly 'the laws by which states ought to be governed, and then the laws and decrees of peoples which have been put together and written down'. This may suggest that Cicero has in mind two levels of law: laws of nature at the universal level, applying to everyone, and laws in particular places and times, and that he thinks of them both as the same kind of rule requiring and forbidding actions. However, Cicero nowhere presents natural law as a set of rules requiring and forbidding action in the abstract; as we have seen, natural law is introduced in the context of natural justice and the virtues, and law is seen throughout in the context of enabling citizens to live virtuously, and so happily. This will scarcely be obtained by a set of rules prescribing and forbidding actions in isolation from concerns with justice and other virtues. While Cicero never gives us an example of a law of nature in the abstract, we can see that for such a thing to make sense in the context of what Cicero is doing it would have to be a law prescribing *virtue*, rather than particular kinds of action. It could be a law of nature, for example, that everyone should live in a way which is pious towards the gods. Different societies will then establish laws requiring and forbidding actions which they think will get citizens to behave in ways that will encourage them to live piously. Different societies will do this in different ways, but, if there

<sup>61</sup> *On the Laws* 3, 26. This is analogous to the Athenian's allowing for (restricted) use of the lottery in assigning offices; both are concessions to the ordinary citizen to which they are not fully entitled in theory.

<sup>62</sup> See Atkins (2013a) for detailed discussion of this approach.

<sup>63</sup> *On the Laws* 1, 17.

is, as it is assumed that there is, an objective fact about what piety is, some will do this better than others. Cicero holds that a modified and improved version of the religious laws of Numa do this better than any other society. We can query this, of course (and in his own time non-Romans certainly would), but it is a perfectly coherent way of developing the account of natural law that Cicero puts forward. As we have seen, he thinks that in basic matters everyone has by nature the ability to get some things right; it is pretty much universally agreed, for example, that human sacrifice is a mistaken way to show piety to the gods, and that peoples who practise it are living an inferior and less flourishing kind of life. Apart from that, different societies have differing religious systems. Cicero takes the Roman system, the 'laws of Numa', to be the most ethically authoritative one, the best system regulating citizens' relations with the gods. He does not give his reasons for this, but we can see ways in which Romans could reasonably see their religious system as more stable and better organized than what might seem the chaos of different systems in Greek and other cities.

The second major reason to deny that Cicero thinks of natural law as itself having a law-like form is that natural law has been presented as right reason in the mind of the wise person.<sup>64</sup> The wise person is the ideal knower and agent, who has the appropriate kind of knowledge of everything (appropriate to what she needs to know) and makes no mistakes in acting; furthermore, this comes from a virtuous disposition which is completely rational and in no way affected by contrary inclinations. This is quite an ideal, and in its Stoic form particularly daunting. In the context of natural law, right reason in the mind of the wise person will always lead to right action from the right kind of virtuous disposition. It is quite wrong, then, to think of this right reason as consisting in a set of general rules specifying certain actions. Such rules play a part in the formation of the virtuous disposition, but right reason in the mind of the wise person has developed far beyond following or thinking in terms of rules about actions. Natural law in the mind of the wise person will thus be something that we can aspire to, but hardly hope to achieve. In what way is it a help for us in thinking about law? Cicero says that we are

<sup>64</sup> *On the Laws* 1, 19.

searching for the head, the fountain, or the root of law,<sup>65</sup> something which we would not expect to have, itself, a rule- or law-like structure. What can the connection be?

Cicero is discussing not two systems of law, one ideal and one Roman, but one, namely Roman law. He is arguing that Roman law is the best interpretation of ideal right reason: the system of rules best adapted to encourage virtue, and so a happy life, in the citizens. Roman law thus has an ethical authority which other systems of laws lack. He is not confusing Roman law with some ideal set of rules, or with rules derived from ideal rules (confused endeavours in any case). He thinks that Roman law (mostly, and if modified in the light of the better past) expresses most correctly the ideal right reason of the wise person, which when applied will produce virtuous and so happy citizens. To do this it has to be interpreted and adapted to actual circumstances. The attempt may fall short of the best that could be done with the given circumstances, but it is still the best that can be achieved to render citizens virtuous and so happy, and so is still superior to other systems of law. Cicero is no doubt thinking of Greek systems of law, which to Roman minds were messy and undertheorized.

The wise person gets everything right, but we non-wise people all have a share in reason, and to some extent in right reason; it is this which makes all humans capable of forming a community of humans and gods insofar as we share in right reason. Insofar as all humans share in right reason, then, they all form a community of the wise with one another which transcends their actual communities. The excellence of Roman law, in Cicero's claim, is endorsed by the community of the wise, not just by Romans. In this way Roman law can be judged to have universal application: it has ethical authority recognized by the wise everywhere, whether they are Roman or not, and even where it does not have authority 'on the ground'. This is, again, a perfectly coherent way for Cicero to think of the relation of natural to ideal Roman law. It does not imply that he thinks that Roman law as it stands in his day is perfect; his ideal laws modify actual Roman law in the light of a theoretically ideal Roman past. It does not imply that Roman law should forthwith be

<sup>65</sup> *On the Laws* 1, 18 (*caput*), 1, 20 (*fons, stirps*). The metaphors of head, fountain, and roots (literally stock) hardly suggest something with the structure of a set of rules about action.



imposed without alternative on everyone; apart from its present state being flawed, this would ignore the local differences that right reason in the wise person would take account of in deciding in various circumstances. Nothing would be less likely to be endorsed by the wise person than imposing a set of rules designed for one culture on another culture with no adjustments.

Cicero's position does have at least one notable implication. He is indicating that Rome, which had developed an empire and consequent commitments, would have ethical authority to rule others in accordance with her own laws—if she returned to the improved laws of her (ideal) past and redeveloped the virtues which those laws earlier encouraged her citizens to develop. This is a bold claim. It is not, however, an endorsement of actual Roman imperial rule as it stood in Cicero's time. Cicero was second to none in noisy Roman patriotism, but he was fully aware of the breakdown of Roman institutions in his day, and the consequent breakdown of Roman virtues. He sees Rome's salvation from the civil wars not in terms of radical social reform but in terms of a return to old Roman virtues, to be achieved by a return to the laws of the ideal Roman past. For Cicero this is a project to be thought up and carried through by the ideal blend of theory and practice to be found in Roman statesmen fit to lead Romans towards the ideal. Hence the stress at the end of Book 1 on the importance of philosophy in order to understand the theoretical basis of a system of law which could have universal ethical authority.<sup>66</sup>

Cicero is not, then, deriving an actual system of rules about actions from an ideal system of rules. He is putting forward an idealized Roman law code as one which expresses the right reason of the community of the wise and is endorsed by it. The result is the nearest that anyone has come, historically, to the best law code, and as such it has ethical authority not just at Rome but everywhere. This endorsement of idealized Roman laws by the community of the wise takes into account something which even ordinary people can appreciate: laws endorsed by right reason favour the development of virtues and discourage vices, and so help to produce a state where the citizens live virtuously, and so flourish.

<sup>66</sup> Some have seen Cicero's vanity as great enough for him to cast himself in this role; but in *On the Laws* he gives himself the part analogous to that of Plato's Athenian, not that of Scipio in *On the Republic*; he can see what others in his society fail to see, but he is aware that he now lacks political authority in it.

It can be objected to this approach to the work that if natural law does not take the form of a set of rules which merely require and forbid actions, what is the point of calling it natural *law*? 'Cicero identifies right reason and the virtues flowing from it with law; but [n]othing else at this level is particularly law-like; there is no derivation of a code of specific moral rules from this abstract natural law.'<sup>67</sup> As we have seen, there is no derivation of rules about actions from naturally grounded rules about actions; but this is an advantage, rather than a disadvantage, of Cicero's approach, and we have to be careful to avoid anachronism in understanding it. The mention of 'moral' rules reminds us that our conception of what makes a rule 'moral' does not have a clear place in Cicero's discussion of virtue and law.<sup>68</sup> If the demand is for rules which specify types of action to be performed, or which are formulated in terms of what ought to be done, or is right to do, these are not, in ancient ethical theory, to be produced independently of (or prior to) considerations of virtue. Since at the level of natural law we find requirements of virtue, rules requiring and forbidding kinds of action will not be endorsed by these requirements unless the actions in question are such as both express virtue and tend to lead to its development. Demands of virtue are not, as has sometimes been thought, vague and useless in directing action, needing to be supplemented by rules which do nothing but require and forbid kinds of action. Cicero fully accepts the ethical traditions in which considerations of right action are not separable from those of virtue; and it is the requirements of virtue, at the level of natural law, which determine which are the kinds of action which do or do not promote virtue and so happiness, and so which laws are better or worse in their requirements of kinds of action.

Still, what is the point of talking about natural *law*? *Nomos* and *nomimos* cover not merely written law but social norms broader than written law; Cicero is used to the Latin word *lex*, which is somewhat narrower in application, and also to the Latin *ius*, a term which in different contexts corresponds to justice and to right, and which in the plural is often used for systems of law. What he focusses on is the

<sup>67</sup> Inwood (2007) 146.

<sup>68</sup> There are also problems internal to the concept of morality, which I shall not pursue here.

*directive* aspect of law, requiring and forbidding kinds of action and thus ways of life and the development of virtues. It is the directive, demanding nature of law which Cicero takes to be its essence. Law is a *force* of nature, something experienced by us as forcing us to do (and not do) things regardless of whether or not we want to do (or not do) them, and so experienced as having *authority* over us, the same authority as is exercised by our own reason over our desires. It is this demandingness which Cicero takes to be the centre of our conception of law. Since he is not aiming to find universal rules which require and forbid actions independently of virtue, he sees natural law as making requirements of virtue, which when stated abstractly probably sound strikingly obvious, such as 'live piously towards the gods'. These are concepts which people anywhere and at all times can accept, at least when their thinking is not clouded by self-interest or excessive desires. The hard part is to produce actual laws, with the structure of rules requiring and forbidding actions, which can be endorsed by the community of the wise as good expressions of the demands of virtue. Cicero is doing this hard task for his fellow Romans to the best of his abilities.

### Cicero's project in *On the Laws*

Plato's influence on Cicero comes through the mediation of the Stoics, but we can see a real similarity of project. Their prime concern is with the virtue and so happiness of citizens, and with laws which will produce and sustain this. Cicero's approach is universal and so no longer takes the form of producing an ideal Greek polis. Arguably this is not only a reasonable development of Plato's ideas about cosmic reason and law in *Laws* 10, but, given the appeal to cosmic reason, a logical extension of them. Once law is seen in the context of universal cosmic reason there is a drive to see it as demanding on everyone, not merely citizens in a particular political and cultural context. That Cicero is able to see idealized Roman law in this light is due to the development of the Stoic idea of natural law, which sees it not as a set of rules about actions but as right reason in the mind of the wise person, and thus as requiring and forbidding kinds of action in the light of virtue and its demands. In this respect the Stoic idea of natural law is very different from natural law theories of the mediaeval and early modern period.

*On the Laws* is unfinished, so we do not know how far Cicero was going to take his account of ideal laws, but we have enough to discern the project, and to see that it is not internally confused; it applies some of the ideas in Plato's *Laws* in a different way, one that is universal and appeals to more developed positions about the relation of law to virtue. It does not stand in an existing philosophical tradition springing from the *Laws*, but represents one thoughtful updating and rethinking of its project.

## 8

# Philo on Virtue and the Laws of Moses

### Philo and Philosophy

Philo of Alexandria (c. 20 BC–c. 40 AD) was a Jewish philosophical thinker. We know a little about his life. He came from a wealthy family in the large Jewish community of Alexandria; his brother and nephew were prominent in the Roman government of Judaea and Egypt (the nephew, Tiberius Alexander, became an apostate). He visited the Temple at least once, and at the end of his life was selected as a member of a delegation to the Emperor Gaius (Caligula), when the mad Emperor, shortly before his assassination, decided to place a statue of himself in the Temple in Jerusalem.

We have a large corpus of work, devoted almost entirely to the interpretation of the Torah, the first five books of the Jewish scriptures. Like many Jewish thinkers of the Second Temple period Philo read these in the Greek Septuagint translation and wrote exclusively in Greek. This was the default in diaspora Jewish life at the time, representing a widening of Jewish horizons, but since the fall of the Second Temple and the subsequent very different form taken by Judaism, it has led to the marginalization of his work in the Jewish tradition (though it had a prominent effect on the Christian tradition).<sup>1</sup> Philo was thoroughly educated in the works of the major Greek philosophical schools. He is sometimes classified as a ‘Middle Platonist’,<sup>2</sup> but he sees himself not as a member of any school of pagan philosophy but as a learned Jew who

<sup>1</sup> See Runia (1993) and (1995).

<sup>2</sup> For example, Dillon (1996), which has been influential. Philo is also treated as a source for Stoic ideas in von Arnim’s collection of Stoic fragments. See Sterling (2014) for an analysis of Philo’s debts to the Hellenistic philosophical schools.

meditates on and interprets the scriptures in the light of his own selection of philosophical ideas, and his own method, often that of allegory.<sup>3</sup>

The series of Philo's works I am concerned with here is his *Exposition of the Law*, which begins with an interpretation of *Genesis*, goes on to *Lives* of the patriarchs, of which we have only those of Abraham, Joseph, and Moses, and continues with the works *On the Decalogue* (the Ten Commandments), *The Special Laws*, an apparently incomplete work, *On Virtues*, and one on *Rewards and Punishments*.<sup>4</sup> In these works Philo sets forth his account of the laws of Moses, and the virtues and ways of life that they produce for those who live according to them, presenting them as superior to the law codes, both actual and ideal, of pagans.

In the way Philo proceeds he is, I suggest, deeply influenced by Plato's *Laws* (and it is clear from his language in these works and elsewhere that he is familiar with the work<sup>5</sup>). His use of Plato contrasts with that of Cicero. He sees Plato not as a past genius to emulate, as Cicero does, but rather as an example of the sort of pagan lawgiver who is clearly surpassed by Moses. Moses is taken as the mediator, through revelation directly from God, of the Ten Commandments, and as the author of the body of the special laws. Plato's *Laws* are influential on Philo, but he sees law, as does Cicero, in terms of Stoic natural law; in his task of explicating the Torah he does not lean exclusively on one philosophical school. Philo is not the only, or the first, thinker in the Jewish tradition to see Plato as a useful resource for explicating Mosaic law, and to formulate this as a claim that Plato borrowed from Moses; but his treatment is the most extensive and interesting.<sup>6</sup> Nor is he unique in arguing that Jewish law

<sup>3</sup> See Mansfeld (1988) and Levy (2009). The question of Philo's audience—whether Jewish, pagan, or both—is difficult, and I take no stand on it.

<sup>4</sup> These can be conveniently found in volumes VI, VII, and VIII of the Loeb edition, except for the initial *On the Creation*, which is at the beginning of the first volume. I do not take up here the vexed question of the structure of the work on virtues, which is puzzling in many ways; see Royce (2006).

<sup>5</sup> Philo's language very often echoes that of Plato among other philosophers, but he does not usually quote, preferring to give the saying his own twist.

<sup>6</sup> An earlier Jewish thinker, Aristoboulos 'the Peripatetic' claimed that Plato's views of law derive from Mosaic law (Fragment 3). Aristoboulos also seems to have been an earlier proponent of the allegorical kind of interpretation of the Torah that Philo makes use of. Aristoboulos' date, philosophical tradition, and influence are all disputed; see Holladay (1995). Josephus (*Against Apion* II, 255–7) says that Plato had the right conception of God and hence rightly banned Homer and the poets from his ideal state. He also says that Plato imitated Moses in making the citizens learn their laws by heart, and in minimizing contact

and ethics form and encourage a better and more virtuous way of life than that of the pagans. Jewish writers in Greek during the Second Temple period standardly relate Judaism to the pagan world around them by emphasizing the superiority, as well as the antiquity, of the Jewish tradition.<sup>7</sup> We also find the same claims in Josephus,<sup>8</sup> but not with such philosophical sophistication.

## Law and Persuasion

Philo praises Moses (regarded as the author of the Torah) for his approach, and is critical of other legislators who do not do as he does. Either, he says, they lay down their laws abstractly, without argument, or they legislate in the framework of a city they establish 'in words', setting up laws to fit this. He rejects both. The first, he says, is too harsh (we shall return to this). He also firmly rejects the second. In one passage he says,

[Moses] supposed that to make the beginning of his writings the foundation of a city made by human hands was too humble to be worthy of the laws. He looked at the greatness and beauty of the entire legislation with the sharpest sight of his mind, and, considering it too great and divine to be defined by an earthly circumference, placed as introduction the genesis of the Great City [the cosmos], taking the laws to be the most faithful image of the constitution of the cosmos.<sup>9</sup>

In another passage his words are sharper. Those, he says, other than Moses who do more than just lay down laws, have introduced masses of pretentious material, confusing people, and hide the truth with their invented stories (or myths, *muthoi*).<sup>10</sup>

So much for the *Republic* and the *Laws*! This is arguably unfair to the *Republic*, in which the ideal city is given an ambitious metaphysical context in the central books. It is also arguably unfair to the *Laws*, in which the structure of an ideal society is in the end set within an account of the cosmos. This is not clear until Book 10, however, and we can see that Philo would regard the overall methodology of the *Laws*, starting

with foreigners; these are both found in the *Laws*. Clement of Alexandria, a Christian philosopher who draws from Philo, says that in the *Laws* Plato copied from Moses (*Stromateis* I 25).

<sup>7</sup> See Gruen (1998) chapter 7 and (2002) chapter 7.

<sup>8</sup> Josephus, *Against Apion* Book 2. The material in this work overlaps with Philo's incomplete *Hypothetica*.

<sup>9</sup> *Life of Moses* 51.

<sup>10</sup> *On the Creation of the World* 1–3.

from what can be improved in the views of Spartans and Cretans, as feeble compared with the structure of the Torah, in which the creation of the world comes first, and gives us the context for the lives of the patriarchs who were 'living laws' before the written Law, leading up to the giving of the Law itself.

When we look at Philo's approach to Mosaic law we find that it has some interesting similarities to what I have argued is Plato's approach in the *Laws*. His writing shows the impact of some of the work's more memorable phrasing, though he takes over Plato's wording for his own purposes, not straightforward quotation.<sup>11</sup> Most strikingly, Philo's presentation of the Commandments and laws in a framework of virtuous ways of life leading to happiness does something very similar to what Plato does by means of his most innovative feature in the *Laws*, namely his introduction of preambles to the laws. I am, of course, not claiming that Philo is simply following Plato here; Philo does not see himself as a member of any philosophical school or tradition. However, they are engaged in the same kind of project, and Philo was probably quite conscious of this, given his general desire to show that the laws he talks about are superior to those of the pagans.

As we have seen, the most striking innovation in the *Laws* is the establishment of the preambles, an innovation, the Athenian claims, because no other lawgiver has sought to have laws obeyed by means of persuasion as well as force.<sup>12</sup> Force is to be 'mixed' with persuasion, because free citizens are entitled to be persuaded to follow the laws as well as being aware of sanctions for breaking them; the model for this,

<sup>11</sup> Philo borrows memorable phrases, but uses them with his own twist. For example, he uses the *Laws'* notorious image of humans as puppets (*Laws* 644d7–645c6, 804a4–b8) but puts it into a Stoic context where it is the ruling part, *hegemonikon*, or mind which pulls the strings to move the other parts (*On the Creation of the World* 117, *Life of Abraham* 73, *On Flight and Finding* 46). The phrase about blind wealth at *Laws* 631c4–5 is used in a different way at *Special Laws* I 25 and elsewhere. The *philautoi* who assert themselves and so fail to follow god (*Laws* 731d6–732b4) appear as the last two groups of those excluded from the community (*Special Laws* I 334 ff) because they exalt human mind and senses respectively rather than live humbly with respect to God. Other examples, gathered in the index to Volume X of the Loeb edition of Philo, show similar changes and twists, in some cases making it dubious whether Philo does have Plato's work prominently in mind.

<sup>12</sup> *Laws* 722c1–2. I accept Ast's conjecture *anagkēn* in 722c5 with England, against Schöpsdaus.



twice laid out, is that of the free doctor persuading the free patient of the nature of his complaint, what the cure is, and how to go about it, as opposed to slaves who merely get the needed instruction with no explanation.<sup>13</sup>

Is Philo doing anything like this? There is an interesting passage in *The Life of Moses* II (50–1) where he describes Moses' approach as a lawgiver. Moses, he says, thought that to command (*prostattein*) without encouragement (*paramuthia*) is the way to treat slaves, not free men. 'In his commands and prohibitions he suggests and advises for the most part rather than giving orders, trying to give guidance on the large number of necessary points by means of preambles (*prooimia*) and after-words, for the sake of exhorting (*protrepasthai*) rather than forcing (*biasasthai*).' Here the term 'preambles' (*prooimia*) suggests Plato's approach to legislation in the *Laws*, as does the contrast between merely forcing people to follow a law and persuading them to follow it. We also find the contrast between giving orders to slaves and treating free people in a different way, one that respects their ability to understand the laws that they must obey. This passage is notable in that it does not at first seem like a very precise account of Mosaic law, which does not present itself as 'advising' or 'suggesting', but rather as sets of rules. However, Philo is thinking of the Law in the context of the whole background presentation in the Torah, not just the rules themselves. As we saw, he thinks that the bare imposition of rules is too 'harsh', and large parts of the *Exposition of the Law* are devoted to showing that the rules of Mosaic law are not in fact just demands to be bluntly obeyed but are, when we understand them and their aims in context, persuasive as well as demanding, treating those who follow them as adults with reflective minds capable of understanding the way of life that they structure.

Plato stresses the need for a good citizen to conform not only to the written law but to 'what most people call "unwritten customs"'.<sup>14</sup>

And all this kind of thing is the same as what people call 'ancestral law' . . . in every constitution these are bonds . . . exactly like ancestral and very old customs. If these are well established and followed through habit they protect and secure the laws already written, but if they go out of true, like builder's supports in the middle of a house which collapse, they make the whole thing collapse . . . we must

<sup>13</sup> *Laws* 719e7–720e9; the image recurs at 857b9–c8.

<sup>14</sup> 'Customs' translates *nomima*, 'law' in the next quotation translates *nomos*.

bind together this new state . . . leaving out nothing great or small in the way of laws (*nomoi*), habits (*ethē*) or practices (*epitēdeumata*).<sup>15</sup>

Philo stresses the same point, for the same reason:

Habits (*ethē*) are unwritten laws, the resolutions (*dogmata*) of men of old, engraved not on monuments nor on papyrus, which gets eaten up by moths, but on the souls of people who share in the same constitution. Children should inherit habits from their parents, as well as property, habits in which they were brought up and have lived with from the cradle, and should not despise them because their handing-down is not in writing.<sup>16</sup>

Both Plato and Philo stress that citizens well educated in virtue do not need the sanction of the written law—it is in a way shameful to be legislating for a well-run city, says Plato,<sup>17</sup> while Philo says that the ‘mere recital’ of Sabbath duties ‘is enough to make those with good natures perfect with regard to virtue, without effort, and to render the restive and stubborn more open to persuasion’.<sup>18</sup> Philo goes on to say that praise belongs to the person who willingly obeys unwritten laws, rather than the person who obeys the written law because he has to—a thought quite similar to the passage at *Laws* 822e–823a, where Plato insists that the most ‘complete’ praise of the virtuous citizen is that he obeys the written laws in the light of unwritten sanctions and the praise and blame attached to these. Philo may well not be consciously echoing Plato, but they come to similar positions.

## Law, Virtue, and Happiness

These resonances between the two works about force and persuasion are interesting, but they would be consistent with Plato and Philo having radically different aims in presenting a system of laws persuasively. I suggest that their aims are essentially the same: they are both presenting a system of laws, one which does not just regulate the public area but covers the whole of individuals’ lives. Further, they are both doing this in a perspective of eudaimonism and virtue. The laws, they both think, structure practices and ways of life which enable citizens to develop the character traits they need to become virtuous, and so happy. Hence

<sup>15</sup> *Laws* 793c–d. Cf. 822d2–823a6.

<sup>16</sup> *Special Laws* IV, 149–50.

<sup>17</sup> *Laws* 853b3–c3.

<sup>18</sup> *Special Laws* II, 39.1.

citizens can appreciate that obedience to the laws is the way to live a good life, and to become good people—temperate, just, and with the other virtues. The laws can be presented not just as sources of obligation but as the framework of a way of life in which citizens can aspire to an ideal of good, and hence happy living. Further, it emerges with both thinkers that when we understand that the laws are aimed at the cultivation of virtue, we will see that the virtues need to be to some extent reconfigured. And with both Plato and Philo this brings in God, philosophically conceived, and an enlarged role for the virtue of piety. Admittedly the two have very different accounts of what piety is; Plato takes it to require a rational appreciation of the workings of the cosmos, whereas for Philo piety involves a more personal relation to the one God of a given tradition.<sup>19</sup>

As we have seen, Magnesians who have developed the virtues will not need the sanctions of the law, and thus will be self-motivated to do the things that the law requires. The preambles alone will not achieve this, of course; but they are important in enlightening the citizens on the aims of the laws which structure the ways they live their lives, and in enabling them to become law-abiding in a self-motivated and self-maintaining way. This is the way for them to become virtuous, and so happy.

I suggest that this is a natural way to read what Philo is doing in his works on the Decalogue and the precepts of Mosaic law. We start with something striking about his procedure in these works. It clearly does not occur to him that laws and rules are ethically self-standing, that what is ethically basic in people's lives might be simple obedience to rules. This is not merely because simply forcing people to obey rules is harsh. Living according to Mosaic law, Philo holds, produces a virtuous character, and this is not just a disposition to follow rules; it is a character in which reasoning, emotion, and decision are integrated in a harmonious way:

For each of the ten pronouncements individually and all together prepare and exhort us (*protrepousi*) to practical wisdom (*phronēsis*) and justice (*dikaïosunē*) and piety (*theosebeia*) and the rest of the chorus of virtues. They make our words (*logoi*) healthy with good deliberations, and attach good actions to our words, so that the soul's instrument may throughout play in tune to procure concord of life and an unassailable harmony.<sup>20</sup>

<sup>19</sup> See Konstan (2006) and Sterling (2006).

<sup>20</sup> *Special Laws* IV, 134. Cf. *Virtues* 184: failure in this harmony is blameable.

Here the Ten Commandments are said not merely to tell us what to do and not to do, but to 'prepare and exhort' us to have certain virtues. Virtue here is seen in the terms of Greek philosophy, as an internal harmony of the soul which leads to good actions. So we are not just to do what we are told, but are to be in some way encouraged to have a consistent and harmonious disposition to think and act in certain ways. At the same time Philo is alluding to a verse in *Deuteronomy* (30.14): 'the word is very near you; it is in your mouth and in your heart and in your hands to do it'. Elsewhere Philo associates this verse with the philosophical idea of the harmony of thoughts with words and words with actions.<sup>21</sup> Moreover, Philo holds that genuine virtue leads to happiness:

If our words (*logoi*) are of the same kind as our deliberations, and our actions of the same kind as what we say, and these reciprocate with one another, being bound with the unbreakable chains of harmony, then happiness (*eudaimonia*) prevails; happiness is wisdom (*sophia*) free of falsehood, and practical wisdom (*phronēsis*)—wisdom for the service of God, practical wisdom for the organization of everyday life.<sup>22</sup>

Philo refers throughout his works to happiness (*eudaimonia*) as our ethical final end, the default in ancient ethical thought. He is not alone in regarding happiness as the obvious aim of Mosaic law; Josephus makes Moses tell the Israelites to keep to the way he has given them for them to be happy (i.e. live happily).<sup>23</sup> He always regards it as to be obtained only through virtue, which for him involves piety (something to which we will return).

Throughout his works Philo is elusive as to the relation of virtue to happiness; sometimes he supports the Stoic claim that virtue is sufficient for happiness, while at other times his view seems nearer the Aristotelian concession that external goods are required, though not sufficient for happiness.<sup>24</sup> Partly because he does not sharpen his views at the

<sup>21</sup> See Cohen (1993) 19–23. The reference to hands is in the Septuagint, but not the Hebrew text.

<sup>22</sup> *Rewards and Punishments* 81.

<sup>23</sup> Josephus, *Jewish Antiquities* 4, 176–9.

<sup>24</sup> *Life of Abraham* 217–24 sharply contrasts devotion to virtue with caring about external goods, in a Platonic context. Joseph's coat of many colours symbolizes the rejected view that goods include bodily and external goods (*The Worse Attacks the Better* 6–8). Joseph is sometimes treated sympathetically as the politician who deals well with external matters (as in the *Life*), though sometimes as the person who is devoted to worldly vanity (as in the two works *On Dreams* (cf. *On Dreams* I, 219–27)). See Gruen (1998) chapter 3.

theoretical level, it is reasonable to see him as sympathetic throughout to the position of the *Laws*, that virtue has priority over other goods, and that without virtue other, worldly goods like health and wealth lose their value for the person. Rules like the Ten Commandments and the other rules of Mosaic Law are, then, guides to follow in order to become virtuous and achieve a happy life. Philo sees nothing striking about this way of looking at them, eudaimonism being the default in his intellectual world; we are the ones who have to detach ourselves from traditions of seeing them as isolated commands.

Philo can also avoid a thorny issue in Hellenistic philosophy: is the active, practical life to be preferred to the life of contemplation of the nature of the cosmos, or vice versa? He firmly insists that both lives are happy, as in the above—‘wisdom for the service of God, practical wisdom for the organization of everyday life’. He is able to do this because of his Jewish context, where ordinary members of a Jewish congregation gathered every Sabbath in the synagogue to discuss and learn about the Law. Pagan religion had nothing remotely corresponding to this, and hence pagans found it natural to think of Jewish religion as a philosophy, since it involved not merely ritual but also learning and intellectual understanding.<sup>25</sup> For him, all Jews, not just a few, participate in philosophy as well as running their daily lives, and so the choice between lives is not as drastic as it is for pagans.<sup>26</sup> This is especially clear in a passage where the hope of happiness leads keen people to ‘study philosophy’ so as to achieve the completion of ‘the best lives, that of theory and the practical life; the person who achieves these becomes happy’.<sup>27</sup>

How does Philo show how living according to Mosaic law can produce not just a rule-following character but a *virtuous* character, one which leads to the living of a happy life?

Here we find another striking point about Philo’s method. He does not treat the Ten Commandments as a list of isolated rules, followed by a

<sup>25</sup> *Special Laws* II, 56 describes this. Josephus, *Against Apion* II, 175–6 points out that as a result Jews know their laws thoroughly, unlike many pagans. See Sterling (2014) 129–31 for pagans seeing Judaism as a philosophy.

<sup>26</sup> In *On the Contemplative Life* Philo describes a Jewish double monastery for men and women. In most of his work, however, the wise person is not the person who withdraws from everyday life but the *sophos* or wise person whose wisdom is exercised in the whole of his (it is always ‘his’) life.

<sup>27</sup> *On Rewards and Punishments* 11.

mass of more specific ones. He treats the Decalogue as 'generic' rules which 'summarize' the more specific ones, and the specific ones 'tend' towards the ten major ones.<sup>28</sup> Instead of a list of rules he puts them forward in clusters connected by the way they help people achieve the ethical aim indicated by the generic rules. This may be Philo's own innovation; there is scholarly dispute as to its relation to the rabbinic tradition of the time.<sup>29</sup> Philo uses it in a developed and sophisticated attempt to explicate Mosaic law in a Platonic way: it is to be learned and practised in contexts which help internalize the aim of the law in establishing virtues, and the aim of the laws as a whole (the Law) in establishing a way of life which is virtuous, and so flourishing and happy. I shall refer familiarly to the 'Ten Commandments', but Philo refers to them as 'sayings', 'headings', and 'oracles' as much as 'requirements' or 'commandments', though recognizing that formally they are commands.<sup>30</sup>

For example, the Sixth Commandment is 'You shall not commit adultery', but Philo does not treat this as an isolated prohibition of just one kind of action, as though as long as you don't commit adultery your attitude to marriage is fine. Rather, the Commandment picks out something crucial to the right maintenance of marriage, and this is treated as the 'heading' under which we find the rules which structure marriage in both positive and negative ways. We find here prohibitions against other kinds of sexual activity than adultery (incest, bestiality, homosexuality, rape, seduction), rules regulating who can and cannot marry, and purity regulations within marriage. All these rules, which on the surface are only loosely connected with one another and with marriage, are unified by their reference to the aim of properly controlling and conducting sexual desire, which is assumed to be universally strong and socially unreliable, always liable to transgress boundaries.<sup>31</sup> This aim can be seen as what unifies otherwise disparate-seeming rules. The rules structure education about and practice of sexual desire in ways which not only keep members of the Jewish community away from a list of forbidden sexual activities, but do so by leading them towards a positive conception

<sup>28</sup> *Special Laws* II, 189: the ten are *genikoi nomoi*, while the particular rules of Mosaic law are *ta en eidei*; III, 7: *ta en merei* are said to *sunteinein* to the ten. Cf. *Decalogue* 154: the ten are *kephalaia* (summaries) of the particular ones throughout the whole legislation. See also *Who is the Heir of Divine Things?* 167–73.

<sup>29</sup> See Winston (2009) 247–51 for a survey of scholarship on the subject.

<sup>30</sup> *The Ten Commandments* 176–8.

<sup>31</sup> *Special Laws* III, 8–82.

of the place of sexual desire in family life. By understanding the ways that sexual desire can develop in ways which threaten stable family life, and seeing how various regulations strengthen it, they come to experience sexual desire as something that has its appropriate fulfilment only in its role within a family structure.

Philo's treatment of the Fourth Commandment, to honour the Sabbath, does not limit itself to treatment of the Sabbath day, but discusses all the Jewish festivals in detail.<sup>32</sup> They belong together because they all require right observance of a festival, something which requires not just the performance of ritual (though ritual must be scrupulously performed) but the right frame of mind. He goes through the different ways in which the different festivals enable members of the community to come to understand the right relationship with God and with one another. People who dutifully go through the motions are obeying the law, but this falls far short of the virtuous performance of ritual, which involves understanding of God and one's place in the world.

He brings this out in his opening section, on 'the feast of every day', which he points out may be surprising to some.<sup>33</sup> His Biblical justification is *Numbers* 28, 2, where daily sacrifices are commanded, and Philo may have been thinking of Temple sacrifices, and perhaps also of Plato's Magnesia, where there is a sacrifice every day to some god.<sup>34</sup> The idea that Philo develops is one that resonates with a passage in the Athenian's speech to the Magnesian settlers: God does not accept sacrifice from evil people, while for good people a festival or sacrifice helps us live a happy life. The Athenian continues:

It is the finest and truest account that to the good man, sacrificing and continually approaching the gods with prayers and offerings and every service to the gods is very fine and good and most productive of the happy life, and especially appropriate. For the bad man the opposite holds. The bad man is impure (*akathartos*) in soul, while his opposite is pure, and receiving gifts from a hateful person it is never right for a good man or a god. In vain, then, is great labour concerning the gods from the impious, while for the pious it is most timely for them all.<sup>35</sup>

Philo develops a similar position in a Jewish setting. The law requiring every day to be a festival, he says, is appropriate to the virtuous. If the

<sup>32</sup> *Special Laws* II, 39–222. See Leonhardt (2001).

<sup>34</sup> *Laws* 828a7–b3.

<sup>35</sup> *Laws* 716d4–717a3.

<sup>33</sup> *Special Laws* II 41.

vices had been less successful 'and the powers of the virtues had remained unconquered in any way, our time from birth to death would have been one continual festival, and families and cities, in peace and freedom from fear, would have been filled with good things in tranquillity'.<sup>36</sup> In fact, he goes on, few are virtuous, and those are mostly people able to retire from busy cities and devote their time to contemplation of nature. If everyone could be like these people, then

the cities would have been full of happiness, with no part in things that are causes of pain and fears, and filled with things that bring about joys and good feelings, so that no season would lack cheerful life, and the whole round of the year would be a festival.

Hence no bad man keeps a festival, since he is full of inner turmoil and conflict, and has no suitable time for gladness. This is in fact why Moses calls the festivals 'the Lord's', since wickedness is so widespread that it is in doubt whether anyone can in fact keep a festival—that is, a festival in the true sense in which keeping it is not having a good time, with eating and drinking, but 'finding delight and festivity in the contemplation of the cosmos and what is in it, and in following nature and in harmony of words with actions and actions with words'.<sup>37</sup> This is Philo's version of an idea which seems influenced both by Judaism and by Plato in the *Laws*: true worship is a matter of the attitude we bring to the ritual, and for good people the ritual expresses a deep commitment to a view of the world as providentially ordered by God. Plato, writing about the ideal city of Magnesia, is more optimistic about the capacity of ordinary people to achieve this. He also sees the human worship of ritual singing, dancing, and sacrifice as the 'play' we do in relation to the gods, for whom we can be no more than playthings, which contrasts with Philo's view of God in a relation of covenant with the Jewish community which worships him.<sup>38</sup>

Philo's treatment of the Tenth Commandment shows very clearly how he takes rule following to be connected to the development of character. The more familiar version of it forbids coveting a variety of things, but

<sup>36</sup> *Special Laws* II, 42. Cf. *Special Laws* II, 209: the Feast of Tabernacles is not just pleasant, but aids the practice (*askēsis*) of virtue. Josephus (*Against Apion* II, 188–9) says that Jews maintain all the time what pagans call *musteria* and *teletai* (religious rites, particularly of initiation, performed only at intervals).

<sup>37</sup> *Special Laws* II, 42–52 (my translation of 52).

<sup>38</sup> *Laws* 803d2–804b4.



Philo, following the Septuagint, reads it, as do other writers of the period, as 'You shall not desire (*epithumein*)'.<sup>39</sup> This seems at first odd; it is commonplace that we should regulate our desires, but how can we refrain from desiring at all? Philo is giving the term the sense of *pure* desire, the element in desiring which is distinct from any reasoning, and as such he also calls it *pathos*, which is 'affection', basic and pre-rational. As such, 'Every *pathos* is blameable'.<sup>40</sup> When Philo unfolds his account of its role in the person's psychology, he makes use of Plato's tripartite soul, divided between reason, spirit, and desire,<sup>41</sup> which he favours in its *Timaeus* version where the different parts are located in different parts of the body, with desire far distant from reason. However, throughout the passage Philo has in mind a basic distinction between reason and an aspect of the person which is irrational, and needs to be controlled by reason, since it has no internal source of control; he does not stick to the details of a three-part soul.<sup>42</sup>

For Philo the point of the Tenth Commandment is the regulation of desire, considered as a force which can oppose reason. He points out that desire which is focussed on its own gratification, with no concern for other aspects of the person's life, is never satisfied, but, like Tantalus, is always grasping for what it doesn't have. Desire leads us to think its objects good when they are not, and thus leads to serious mistakes about what is valuable in life overall. Philo sketches a list of pictures of bad and unhappy lives which are dominated by desire for various objects: desire for money turns people into thieves, desire for fame makes them arrogant, unreliable, and impossible to befriend; desire for bodily beauty turns them into seducers, and so on. These are all unhappy lives, but the one devoted to meeting the desires of the belly is the most abject, 'more painful than any death'.<sup>43</sup>

The lawgiver, Moses, thus decided that the best way to regulate desire was to focus on its most basic form, the desire for food and drink. Thus members of the Jewish community, when hungry and thirsty, do not just

<sup>39</sup> The same is found in Paul (*Romans* 7:7 and 13:9). See Svebakken (2012) 12 note 37 on the version in the author of *4 Maccabees*.

<sup>40</sup> *Special Laws* IV, 79.

<sup>41</sup> *Special Laws* IV, 92–4

<sup>42</sup> See Svebakken (2012) chapter 2, 'Philo on Desire' for the details of Philo's varying contrasts with reason. In the corresponding passage of *On the Decalogue* (142–53) Philo's analysis of desire is distinctly Stoic.

<sup>43</sup> *Special Laws* IV, 79–91.

proceed to eat and drink, but do so within a framework of rules. Firstly, they must give the first fruits to the priests, not rush to consume their own produce. Then they must observe the kosher laws, which are here introduced as rules to make eating always a matter of thoughtful regulation. If the most basic form of desire is disciplined and regulated, this will go a long way to produce a disciplined and self-controlled person, who will not be tempted to be led by desire for other objects, such as money or fame. The basic desires for food and drink are to be gratified within a disciplined and discriminating framework. Members of the Jewish community will internalize the idea that there is to be no direct route from hunger to eating: they will always think in terms of what foods are permitted and forbidden, and thus from the start conceptualize eating as part of a regulated lifestyle which sets limits to permitted forms of desire. Philo sees this partly in terms of self-control: he sees the rule against pork as a ban on the most delicious meat, abstention from which requires reliable self-control.<sup>44</sup> He also finds symbolic meaning in the specific rules: a cloven hoof symbolizes a discriminating attitude, and chewing the cud symbolizes a careful going-over of what is learned. The basic point, however, is clearly that lack of such a regulated life leads to bad lives which are unhappy. The life regulated by Mosaic law will be an orderly one, and the kosher laws produce the basis for this, a life where the most basic forms of desire come to be experienced in a regulated setting, helping to produce a self-controlled and orderly character, less tempted to be led by other forms of desire than people whose eating and drinking takes place in uncontrolled settings and so in more indiscriminate ways.

This passage makes especially clear that for Philo rules, such as the kosher rules, are not simply to be seen as a list of requirements which need no justification, or are justified simply by their origin. Although Jews have to obey them because they are part of the Law,<sup>45</sup> they also have the overall aim of producing a certain kind of character, which is what is needed to live a happy life. The series of disastrous lives resulting from being led by desire makes this point as well.

<sup>44</sup> *Special Laws* IV, 101 (pork), 103 (game from hunting).

<sup>45</sup> The developed kosher laws which Philo refers to are not part of the biblical text he is discussing, but these had become important parts of Jewish self-identity in the Hellenistic period (as had strict rejection of homosexuality and infanticide, both in reaction to Greco-Roman norms).

Both Plato and Philo put forward systems of law and rules which cover the whole of an individual's life; both explicitly take written law to be supplemented in its task by habits and unwritten rules and sanctions. Because of the importance of the latter, both stress the importance, for members of the community, of education of character. Both take the laws to be the work of a human lawgiver or lawgivers, but to be divinely inspired and to embody principles which reflect the good workings of the cosmos. Both insist that the laws must be obeyed strictly, and have harsh penalties for law breaking which are noticeably stricter than those actually inflicted in contemporary society (both are very free with the death penalty, for example).<sup>46</sup> Both nonetheless think that mere rule following falls far short of what people need to live a good life, for they need to be virtuous, and thus to develop virtuous character. Both think that the best context to do this is in fact one of following the laws and rules, but that virtue is developed in appreciating the ethical aims of the laws. Philo does this by developing what he takes to be Moses' intent of treating members of the community like free men rather than slaves: rather than just threatening them with penalties, he aims to persuade them that following the laws will lead to a *well-lived* life. Philo's sophisticated way of treating the Ten Commandments as the main heads of clusters of rules, grouping them by a general aim of dealing well with some aspect of life, takes up Plato's theme of persuading rather than merely threatening; but it also takes up Plato's aim of showing that learning to follow some rules rather than others is itself a form of education in living virtuously and appreciating the value of the way of life that the rules structure.

## Virtue and a Pious Way of Life

After the rules which are grouped under the Ten Commandments Philo points out that as well as the particular virtues developed by following each group of rules, there are virtues which develop as a result of living a

<sup>46</sup> Given the apostasy of his own nephew, Tiberius Alexander, Philo must be aware that the death penalty for apostasy, on which he insists, was not a contemporary fact. His freedom with the death penalty (cf. Josephus, *Against Apion* II, 215—'the penalty for most transgressions [against Mosaic law] is death') may stem from considerations like Plato's, namely that people with the advantage of education in a well-ordered state who *still* commit certain crimes, or reject their upbringing, are simply hopeless and have to be removed.

life in which all the Commandments, and thus the body of Mosaic law, are followed. As we have seen,

Each of the ten pronouncements individually and all together prepare and exhort us (*protrepousi*) to practical wisdom (*phronēsis*) and justice (*dikaia sunē*) and piety (*theosebeia*) and the rest of the chorus of virtues. They make our words (*logoi*) healthy with good deliberations, and attach good actions to our words, so that the soul's instrument may throughout play in tune to procure concord of life and an unassailable harmony.<sup>47</sup>

This suggests the unity of the virtues, but Philo regards this as a position which is 'usual' but not one that he is committed to.<sup>48</sup>

Philo discusses justice and courage at length. In his account of virtue over a person's whole life there is one way in which his concept of the virtuous life which will be the happy life differs from those of the pagan philosophers he studied, as well as the society within which the Hellenistic Jewish diaspora lived. He stresses at length the importance of humanity (*philanthropia*), 'the twin sister of piety'.<sup>49</sup> The Mosaic laws are commended for their humanity towards fellow Jews, gentiles, enemies and captives, slaves, and even animals and plants, which are entitled to rest periods from our use of them. Even earlier he claimed that Moses

filled nearly his entire legislation with recommendations to compassion and kindness (*philanthropia*); he puts forward strong threats against the arrogant and haughty; he offers great rewards to those who think fit to restore their neighbour's misfortunes, and who think of their own superfluities not as private possessions but as shared with those in need.<sup>50</sup>

Philo implicitly points out the superiority of Mosaic law to pagan systems of law, which require no such positive actions from those falling under them.

He also stresses the element of self-control and discipline, which Plato sees in terms of *sōphrosunē*. For Philo it is the law in its entirety that produces this. 'Everyone living according to Moses' sacred constitution (*politeia*) should be more free from unreasoning passion and every vice than those who live under other laws.'<sup>51</sup> Here the laws together are said to form a constitution, something which brings out the way in which

<sup>47</sup> *Special Laws* IV, 134–5.

<sup>48</sup> *Life of Moses* II, 7.

<sup>49</sup> *On the Virtues* 51–174. See Konstan (2006).

<sup>50</sup> *Special Laws* IV, 72.

<sup>51</sup> *Special Laws* IV, 55.

living according to Mosaic law makes one a member of a community, something pagan religion, even though shared between differing cities and societies, did not do.

Philo also stresses the importance of piety (*theosebeia*, *eusebeia*, *hosiotēs*). In the passage above about the virtues that come from all the Commandments together, he says that he has already spoken about it, and there are indications that he wrote a work *On Piety*, but it is lost.<sup>52</sup> This is unfortunate, because he frequently calls piety 'the leader of the virtues', 'the leading and greatest virtue', 'the source of the virtues', and 'the leader of the dance'.<sup>53</sup> It fits with his general attitude to the virtues that piety consists not merely of correctly carried out rituals (though it is important that these are performed, and properly performed) but in having the right attitude to God, both in performing rituals and in following Mosaic law. At the end of his work *On the Creation of the World*, the first in the series of the Exposition of the Law, Philo lays out what we should learn from the opening of *Genesis*. There are five crucial points: God exists, and is not a human fiction; God is one, so there are not many gods; the world was created, and so is not eternal; the world, like its craftsman, is one, so there are not many worlds; finally, God shows providential care for the world, as a parent cares for their children. Someone who has learnt and deeply comprehended these points (which Philo repeats), 'will live a blessed and happy life, having been moulded by the doctrines of piety and holiness'.<sup>54</sup>

These points are, as Philo points out for each one, opposed to beliefs which a follower of Mosaic law must reject: atheism, polytheism, philosophical views about the eternity of the world or the number of the worlds, rejection of Providence. Together they make up the basis of what Philo thinks a Jew must accept to be a member of the diaspora Jewish community, and so set apart from the pagan society he or she is living in.

<sup>52</sup> On this, see Sterling (2006). I note here that I am not discussing the two final sections of *On Virtues*, on 'repentance' (*metanoia*) and 'noble birth' (*eugeneia*). The latter is a Stoic type of discussion, showing that 'true' noble birth belongs only to the good. The former concerns pagans who convert to monotheism.

<sup>53</sup> See Sterling (2006) 120–2 for Philo's ways of referring to piety.

<sup>54</sup> *On the Creation of the World* 170–2. See Sterling (2006) for further references. Cf. Josephus, *Against Apion* II, 170, who claims that Moses made the other virtues part of piety, instead of making piety merely one virtue. Runia (2001) 391–4 argues that this passage in Philo is not a proto-creed, but rather a summary of the basic points without which it would be pointless to go further in studying Mosaic law.

They are the foundation for accepting Mosaic law, and thus becoming educated to have the virtues that this produces, virtues which Philo presents as more attractive than those of the pagans, and more likely to lead to a happy life. Piety so understood is the most important virtue, since without it there can be no real practice of the life according to Mosaic law, only routine rule following.

There is an obvious analogue in Plato's insistence, in Book 10 of the *Laws*, that all citizens of Magnesia must accept three basic beliefs about god in order to develop civic virtues, and that this is so important that people rejecting any of them must be taken out of society and re-educated. Plato, however, holds that most citizens will hold these beliefs implicitly as a result of citizen life in Magnesia, where the festivals will encourage the right attitude to god; relatively few citizens will be educated enough to understand the cosmic basis for the citizens' attitude, and to educate people who get it wrong. Philo, because of the more widely educated and, as we have seen, 'philosophical' diaspora Jewish culture of his day, thinks that any member of the Jewish community is capable of understanding the basic truths, at least to the extent of being able to reject the five corresponding alternatives.<sup>55</sup> Relatedly, belief (*pistis*) sometimes appears as the most complete of the virtues.<sup>56</sup>

Philo gives his readers an enormous amount of detail about Jewish sacrifices and offerings, and is strongly opposed to people who think that if they have the right attitude to these the literal performance doesn't matter.<sup>57</sup> But we have seen (with his understanding of the Fourth Commandment) that he aligns with Plato in thinking that God does not accept even the perfectly performed ritual from bad people, and that the good need to bring to the ritual the right understanding and not just the literal performance. He also aligns with Plato in thinking that the

<sup>55</sup> Cf. Josephus, *Against Apion* II, 168–75: Moses speaks to all, not to an elite as the Greek philosophers do, and his teaching is found in the Jewish way of life as well as in the teaching of the Law in synagogues.

<sup>56</sup> *Who Is the Heir of Divine Things?* 90–1, *Life of Abraham* 262–5. I think it is unwise to translate *pistis* here and in related passages as 'faith', given our contemporary tendency to see faith in a religious context as confidence not based on evidence, which is not relevant here.

<sup>57</sup> *On the Migration of Abraham* 89–93: people who focus on the symbolic meaning and neglect actual observance act as though they were living in the wilderness rather than as parts of a community. The literal meaning should be observed by those who grasp the allegorical meaning, as we care for the body for the sake of the soul.

correct view of god lies at the heart of developing the virtues. For Plato this is understanding of a specific philosophical view of the cosmos, while for Philo it is that, but is also understanding of a monotheistic god, hence God, who has a special relationship to the Jewish people.

## Natural Law and the Law of Moses

So far we have seen Philo discussing Mosaic law as what Moses laid down as a lawgiver, with comparatively little stress on them as God's commands. This goes with the fact that Philo sees Mosaic law not only as the product of a wise lawgiver (far wiser than pagan lawgivers like Lycurgus, or philosophical theorists like Plato) but also as embodying *natural law*. They are the commands of God in the sense of being the embodiment, at the human level, of the rational basis of the cosmos created by God, whom Philo more than once calls, in Platonic fashion, the 'craftsman' of the cosmos. This is an idea basic to the final books of the *Laws*, though Philo comes to it through the medium of Stoic natural law, and so thinks of objectively correct law as found in nature rather than, with Plato, divinely imposed on nature.

This world is a great city (*megalopolis*), with one constitution (*politeia*) and one law (*nomos*), and this is the reason of nature commanding the things that should be done and forbidding the things that should not be done. Actual cities are unlimited in number and have differing constitutions and laws that are not the same. Different customs and rules have been found and added in different places.

The Stoic wording here can't be missed. People refuse to cooperate, Philo adds, even among those of their own culture. They give excuses for this, such as the inadequacy of their resources, but the true cause is their greed and mistrust of one another, 'because of which they are not satisfied by the regulations of nature, and give the name of laws to what seems to be in the common interest to those like them who hold the same opinions'.<sup>58</sup> The Stoic wording here again can't be missed. Philo thus holds that there is an objective law, a normative system which is experienced by most people as making demands on them, because their greed and competitiveness make them unwilling to obey it.

<sup>58</sup> *Life of Joseph* 29–31.

This objective law is, as the Stoics insist, the rule of right reason. Philo says, in the course of arguing that it is not the conventionally free, but only the good person, who is really free, that the vicious are really slaves,

while those who live along with law are free. Right reason (*ho orthos logos*) is law which does not go wrong (*nomos apseudēs*), not inscribed on paper or stone, lifeless as they are, inscribed by this or that person, and perishable since they are mortal. Rather it is inscribed by immortal nature on immortal mind, and is imperishable. Hence one might be surprised at the myopia of people who fail to grasp distinctions between things which are so clear. They say that the laws of Solon and of Lycurgus are what are most important for the people of Athens and of Sparta and are most self-sufficient for their freedom, and they say that the laws have power and authority because those who are governed under them obey them; but they deny that right reason, which is the fountain-head of other laws, is sufficient to make wise people, who obey it in whatever it demands or forbids, participate in freedom.<sup>59</sup>

Philo accepts the idea, presented sometimes in Stoic terms, that there is *law* to be found in the demands made of humans by the active force in nature, which is reason working rightly. This presents itself to us as demanding that we act virtuously; those who are fully virtuous have minds aligned with it, but we mostly experience it as requiring of us what we are not eagerly ready to do. There are ideas discussed in the Second Temple period which can be seen as encouraging such an idea separately from Greek influence,<sup>60</sup> but as Philo presents the idea he is clearly influenced by Stoic universalism and the connection of obeying natural law with living virtuously and so happily, particularly in a community.

Philo takes Mosaic law to be the embodiment, at the human level, of natural law. The opening of *Genesis* shows that,

the cosmos is in harmony with the Law and the Law with the cosmos, and the man who abides by the Law becomes a citizen of the world (*cosmopolitēs*), monitoring his actions in relation to the determination of nature, in accordance with which the whole of the cosmos also is administered.<sup>61</sup>

If humans could get rid of internal discord, they would enjoy peace, taught by the law of nature—that is, virtue—to honour God and be concerned with his service, which is the source of happiness and long life.<sup>62</sup> Law is what is eternally lawful, since right reason, which is law, is

<sup>59</sup> *Every Wise Person is Free* 47.

<sup>61</sup> *On the Creation of the World* 3.

<sup>60</sup> On this see Bockmuehl (1995).

<sup>62</sup> *On the Posterity of Cain* 185.



not destructible, whereas what is contrary to law is easily destroyed; it is an eternal law in nature that education (*paideia*) is good and healthy, while lack of it is the cause of disease and destruction.<sup>63</sup>

Natural law on the human level is identified with Mosaic law, however strange this may initially seem.<sup>64</sup>

That Moses himself was the best of all lawgivers anywhere—of all here have been, Greek or barbarian—and that his laws are the finest and truly divine, with nothing that should be there left out, the following is the clearest proof. If anyone goes over the law of other peoples in a reasoned way, he will find that they have been unsettled for numberless reasons [wars, tyrannies, misfortunes, too much good fortune] . . . The laws of Moses alone are firm, unshakeable, unmoveable, as being stamped with the seals of nature itself; they remain firmly from the day they were written down until now, and there is hope that they will all remain for all future times as though immortal, as long as the sun and moon and the entire heaven and cosmos remain.<sup>65</sup>

Moses, we find, made it clear by setting the giving of the laws in the context of the creation of the cosmos that those obeying them would welcome following nature, and would live in harmony with the ordering of the universe, and in concord of words with actions and actions with words.<sup>66</sup>

We have seen that it is not unprecedented to identify natural law with a particular system of law, since Cicero makes this move with idealized Roman law.<sup>67</sup> With Philo it comes from his own concerns, since he certainly did not know about Cicero's unfinished work; it is unlikely that he read much at all in Latin, certainly not philosophy. As we have seen with Cicero, there is no reason to think of Philo's identification of Mosaic Law with natural law as the strange idea that natural law consists of a set of very general rules from which the rules of Mosaic Law can be derived. Rather, the idea is that actual laws have ethical authority to the extent that they embody natural law, rather than simply being the product of compromises between political forces. Philo doesn't deny that other systems of law do this to some extent, but his *Exposition of the Law* is geared to showing that Mosaic Law does so in a way that no actual or philosophical pagan systems of law can do. The ethical authority of Mosaic Law derives from its being the Law promulgated by Moses, the great lawgiver who understood natural law in a way that pagans did

<sup>63</sup> *On the Drunkenness of Noah* 141–3.

<sup>64</sup> Najman (2003).

<sup>65</sup> *Life of Moses* II, 12–14.

<sup>66</sup> *Life of Moses* II, 48.

<sup>67</sup> See Horsley (1978).

not, and so gave laws which form the framework of a life which encourages the standard virtues like justice and courage, but also promotes humanity and kindness, and in which the understanding of the virtues is based in grasp of the existence and nature of God as the only god. Philo is not aware of a 'divine command' theory of ethics, such as is common in contemporary ethical thinking, and would presumably have difficulty grasping it; to obey the commandments rightly we need to understand them, and to do this we need to understand the nature of what gives them authority. Nor do we simply read the rules in Scripture and obey them just because they are part of it; that would be a failure to grasp their point, and the way they are embedded in, and come from, the nature of God's rational and providential crafting of the cosmos.

While Philo does not explicitly talk about natural law as being in the mind of the wise person, the idea is implicit in his treatment of the patriarchs, from Abraham to Moses, who came before the written Law. They are treated as not only historical figures but as models of virtue. The first three represent three aspects of the life of virtue, Abraham representing the virtue of learning, Isaac natural virtue, and Jacob the virtue of practice and striving (*askēsis*); the life of virtue requires the cooperation of all three.<sup>68</sup> To become virtuous they did not need the later written Law, because they were 'living laws', people able to act, think, and feel virtuously in accordance with natural law. Philo is presumably aware that this resembles the Stoic ideal of the wise person or *sophos*, whose mind aligns with natural law so that he gets it right in every aspect of life; the lives of people who pursue virtue intently are a kind of living law.

To the many and great praises of [Abraham as the wise person, the *sophos*] he [Moses] adds this as the crowning one: that this man carried out the divine law and all the divine commands. He was not taught by writing, but was made keen by unwritten nature to follow up his sound and healthy impulses. What is it appropriate for humans to do other than to trust firmly in what God approves? Such was the life of [Abraham], the first and the founder of the nation, who was law-abiding as some say; but as my account has shown, was himself a law and an unwritten enactment.<sup>69</sup>

Philo claims that before examining the written laws we should look at the 'originals' of which written laws are merely the copies. These originals

<sup>68</sup> *Life of Abraham* 52–5.

<sup>69</sup> *Life of Abraham* 275–6. Cf. *On the Virtues* 194.

are the model lives of the patriarchs, who were 'living laws', and from which we can learn that the demands of the written laws are consistent with human nature, and that they are not difficult for us to follow; we can regard them as reminders of the virtuous lives of the ancients.<sup>70</sup> For Philo the rules of the written laws do not have their own self-standing justification, and are not justified merely by their origin on Mount Sinai; they are the rules which we have to follow in order to live a virtuous, and so happy life; the patriarchs, however, could live virtuous lives from their own superior grasp of God's reason in the cosmos and in human life. It is the *virtuous* life which is the ideal, and following the written requirements of Mosaic law is our way to achieve that, tailored to our limitations: we have to organize our lives in these ways in order to develop the virtues, whereas they did not need to.

Philo stresses that Moses is a superior lawgiver to any other, whether actual or theoretical, because his laws have the ethical authority of natural law. Natural law is universal, applying to everyone; indeed Moses is said to be a 'citizen of the world', ascribed to no particular nation because his portion is the universe.<sup>71</sup> Does this imply that those outside the Jewish community should recognize this superiority and follow Moses' laws rather than their own?

Philo tells us that Mosaic law is recognized and respected among other peoples, especially those who take more account of virtue. In most countries people reject and despise the laws of other countries, and are also constantly in conflict about their own, 'but our laws attract and turn towards themselves barbarians, Greeks, mainland and island peoples, nations to the east and west—the whole inhabited world from one end to the other'.<sup>72</sup> Philo then tells the story of the translation of the Hebrew scriptures into Greek, a story presumably familiar to his audience from earlier Jewish Greek literature such as the *Letter of Aristaeas*.<sup>73</sup> Ptolemy Philadelphus, the third Greek ruler of Egypt, requested learned scholars to translate the Hebrew scriptures into Greek for the Library of Alexandria. Seventy of them, translating in isolation from one another, miraculously came up with exactly the same translation, which exactly conveyed

<sup>70</sup> *Life of Abraham* 2–6.

<sup>71</sup> *Life of Moses* I, 157.

<sup>72</sup> *Life of Moses* II, 20. Cf. Josephus *Against Apion* II, 282–6.

<sup>73</sup> This is a work assigned to the 2nd century BC, part of which is later paraphrased by Josephus.

the letter and spirit of the original Hebrew; hence the title of the translation, the Septuagint ('Seventy'). Philo adds that every year there was a festival at Alexandria, still observed in his day, celebrating the translation of the scriptures into Greek, the *lingua franca* of the ancient world; Jews and others would sail over to Pharos island in the harbour (the site of the translation) and after thanksgivings have picnics on the beaches.<sup>74</sup>

Historians have doubts about this tradition about the production of the Septuagint (not just the miraculous part), but it is clearly of importance to Philo as a symbol of the way Judaism has in his day been opened to the wider world. He adds a powerful passage:

Thus the laws are shown to be enviable and worth striving for to everyone, whether ordinary individuals or rulers—and that although our people has not for a long time been fortunate, and it is somehow natural that what belongs to people not in their prime is overshadowed. But if there were some fresh start to a brighter state of affairs, how great an improvement would be likely to come about! I think that each people would abandon what is peculiar to them, say farewell to their ancestral customs and turn to honouring these laws only. When the laws shine out with the prosperity of their people they will put the others in the shade as the sun does to the stars.<sup>75</sup>

Philo is hoping for an eventual general enlightenment which will lead pagans to reject polytheism and turn to an ordered life centred on monotheism. In his works he shows respect for converts to Judaism for achieving this enlightenment and abandoning polytheism. The intellectual appeal and the authority of Mosaic law come from its content, and those outside Judaism can appreciate the universal import of this; it is not simply justified by its sacred origin and tradition.<sup>76</sup> There is no question of active proselytizing, however, an idea quite foreign to any ancient religion. For him Judaism is universal in being the only philosophically structured way of life which is adequate to having the authority of natural law, and to having the correct (monotheistic) concept of God as its religious basis. He hopes that eventually pagans also will come

<sup>74</sup> *Life of Moses* II, 41–2.

<sup>75</sup> *Life of Moses* II, 43–4.

<sup>76</sup> Najman (1999) points out that this aligns Philo with the Greek philosophical tradition, which did not recognize ethical authority in revelation, but rather in reasoned argument about the content of ethical claims. (In this he differs from some other Second Temple writers, such as the author of *Jubilees*.) However, this alignment with Greek philosophy serves to highlight the superiority of the Judaic ethical tradition.

to see this. In the meantime what is important for Jews (perhaps especially diaspora Jews) is to maintain Mosaic law.

I have drawn out one strand in Philo's works, the way in which in the *Exposition of the Law* he develops ideas which are similar to some of Plato's in the *Laws*. I have stressed that Philo is a many-sided figure both as interpreter and as philosophical thinker, and I am certainly not claiming that what I have discussed is the most important aspect of his works. But, given his acquaintance with Plato, it is surely of interest that he presents Mosaic law not as a system of isolated rules, but as clusters of rules which structure an aspect of life in such a way as to encourage specific virtues. Virtues are encouraged by all the rules over a person's life as a whole, not merely in some compartment, and the virtuous life is the happy life: a claim is being made that a specific set of laws and rules is superior because of the superior virtuous and happy life that is led by those who follow them. In all this we can see a project analogous to Plato's, the interest of which goes beyond the issue of actual influence.

Like Plato, Philo brings out that the virtues that are encouraged by his laws are different from those that most people commonly recognize and praise. Plato emphasizes discipline and self-control as opposed to self-assertion and a competitive spirit. Philo also emphasizes discipline and self-control, but also the positive aspects of Mosaic law which lead to humanity and kindness. Both are concerned with the virtues that people learn within a community. For Plato this is the Greek city-state; for Philo it is a community unified by a specific way of life (Mosaic law based on monotheism) but dispersed among several other political communities.

Philo (and other Jewish and Christian writers) see Plato's conception of god as basically right, though not going far enough in explicit rejection of polytheistic worship. It is interesting to compare the different ways in which basic beliefs about god (or God) are at the centre of Plato's and Philo's conceptions of the virtuous and so happy life, Plato's emerging as the more intellectual, and hence more elitist. The most noticeable difference, of course, is that Plato's conception of law as divine order imposed on nature is transformed, through the Stoics, into natural law, and becomes a normative system applying to everyone alike, and hence setting up claims far beyond those of the Greek city-state. Cicero and Philo independently make claims of universal ethical authority for a particular system of laws, thereby ethically privileging their own laws.

For both, their claim is that their laws structure a way of life in which virtues are developed, and so members of a community can flourish and lead happy lives. As has been underlined, this is a claim about laws in a context of virtue, and differs utterly from conceptions of natural law which see it as a system of very general rules from which specific rules are derived. Philo sees natural law in the context of virtue, and in this he is, in different ways, like Cicero and like Plato. They are convinced that obeying the right rules, *in the right way* (where this is more complex than is commonly realized) leads to *virtue*, and their projects follow this idea through, in ways that differ according to their social, political, and religious contexts.

## 9

# Bringing Things Together

By this point the main theme of the book is, I hope, clear. We tend to accept a story about the relation of Plato's *Republic* to his *Laws* which, stated generally, goes like this: Plato first thought that virtue (involving a high notion of knowledge) gave the right to rule, and in his later work moved to thinking that citizens should all be ruled by the law in the absence of suitably virtuous people. As so stated this story is clearly right, but we tend to come to it with certain assumptions moving us to interpret it in terms of stronger contrasts, which I have argued are false. That virtuous people should be the rulers in no way implies that they rule without laws, or that laws are for them mere suggestions which they can overrule. Kallipolis is a city of laws, and the citizens, especially the rulers, are to be brought up to obey them. When in Magnesia citizens are brought up to obey the laws and to be aware of their role in their education, this in no way implies that Plato has given up on the idea that they should become virtuous, or that he thinks that reliably obeying laws is all there is to virtue. When these points are taken seriously, it becomes harder to see the *Laws* as Plato giving up on the project of creating the ideally virtuous and so happy city, the only kind of city he thinks worth reflecting about. Magnesia is a different attempt to do the same thing that Kallipolis does: sketch a city in which the citizens are to be educated to be virtuous, and so to live happily. Lowering the level of intellectual attainment, and hence of virtue, that any citizen is to reach enables Plato to extend the attainment of virtue to the entire citizen body. (I have not in this book discussed the resulting problem, which Plato shares with the Aristotle of *Politics* 7 and 8, that this more egalitarian attitude to the relations of citizens among themselves goes with an exclusionary attitude to foreigners, slaves, and, in Aristotle, many workers, and hence to an unaccounted exploitation of them.)

Virtue and its importance are not weakened in the *Laws*; I have argued that Plato is trying a new and innovative way of having citizens be educated to be virtuous, and so live happily, and that this affects his whole approach to the law code and its role. Magnesia is to have virtue as the aim of its laws and institutions, and Plato sets the project in the context of Cretan society, which is like Sparta in having laws and customs whose aim is openly that of producing virtue in the citizens, and so gives a model of universal public education and a citizenry respectful of the laws which organize their lives. But he needs to look elsewhere to find the kind of institutions which produce citizens who will aim at virtue as a whole, not merely courage, and he looks to Athens; the Athenian introduces laws and practices which will produce citizens who actively participate in governing themselves, and who expect to hold their officials to account; Magnesia is to have a citizen body which is ready to be ruled *and* to rule. Magnesians will not, like Athenians, expect law making to be an ongoing citizen occupation; they will obey the law as a fixed system. But they will not, like Spartans and Cretans, have too much deference to authority, and so remain satisfied with institutions which give some individuals too much power.

Plato's attempt to integrate aspects of Athenian and Spartan culture is based on profound reflection on the strengths and weaknesses of each, and the need to craft institutions which will make the blend not only politically excellent but stable. The result is arguably as bold a piece of political philosophizing as the creation of Kallipolis, if less dramatic. (The *Laws* notoriously lacks the exciting metaphysics and epistemology of the *Republic*, as well as being stylistically less accessible.) Plato's new methodology, drawing out from members of conservative societies their agreement with extensions and enlargements of their political views, does not signal a collapse of confidence in philosophical reasoning. The philosophical thinking underlies the whole production of Magnesia, from the cautious beginning to the development of the laws to the sketch of the cosmic view that underlies the Athenian's conception of law. The philosophical structure is there; it is not so obvious as in the *Republic* because it is not developed in conversations between the interlocutors—even in Book 10 the Athenian does not need them to develop the view he puts forward.

It tends to be easier to see how we can go wrong in interpreting the *Laws* than to come to a just understanding of it. We are unfamiliar with



the idea that genuine virtue could be the result of an education in which obedience to laws is prominent. The two models represented by Athens and by Sparta are parts of history to us, not pressing contemporary representations of good government. We think of law making as an ongoing enterprise, because we are aware of constant changes in a far wider cultural world than that of Plato. We are rightly appalled by some of the harsh punishments in the law code, and by the acceptance of slavery; here we are on the right side of history, and we have to remember the society he lived in.<sup>1</sup> Many features of the work, including the diffuse style, set barriers to the kind of close engagement that the *Republic* has long had. I have tried in this book to show how the *Laws*, in a different way, contains significant ideas in political thinking, and a significant methodology, which are as interesting and worthy of study as those in the *Republic*. Despite recent renewed attention to the *Laws* it is unlikely to match the more exciting earlier dialogue in engagement from students and researchers; but there is much in it which is now rightly getting serious attention.

The *Laws* is occasionally mentioned in ancient discussions, but historically had no practical influence. Cicero and Philo are both independently influenced by the work, and what attracts them is the major point in the *Laws*, that the virtues of citizens who are to live together happily are to be developed through strict adherence to a law code. I have sketched their differing takes on this idea; the influence of Plato is clear even though there is no direct tradition they are both drawing on. They both share the Stoic development of natural law rather than drawing directly on the idea of divine law in *Laws* 10, but I have argued that this is not a rejection of Platonic ideas about law; rather it is a further development of them. The Stoic extension of the ethical reach of natural law to all humans takes both Cicero and Philo beyond the parochial model of the Greek city-state, and gives their projects a different shape. Rather than producing a law code which is to enable citizen virtue, and so happiness (whether purely theoretically or drawing on experience), they ask how far a given law code embodies natural law, and thus has

<sup>1</sup> Though on slavery Plato's views are harsher than those of contemporary Athens (see Chapter 4, note 33), and reflect a ruthlessness, and a conviction of the ultimate unimportance of individual suffering, that can be found elsewhere (in Kallipolis workmen too sick to work are dismissed as better off dead (*Republic* 406c–407a)).

ethical authority that other systems of law lack. What they retain is the firm idea that inculcating obedience to law is the way to produce virtuous citizens, and that Plato is right to insist that persuasion as well as force is needed to do this effectively. While neither literally takes over the preambles, they take their function to be important, and provide it in differing ways.

Finally, Philo in particular points out the interesting way in which Plato in the *Laws* foreshadows the idea of a community in which cultural unity is accompanied by, and can be seen by some to be based on, religious unity.<sup>2</sup> Philo is talking to and about the community of the Jewish Second Temple diaspora, and he very stringently sees religious unity as based not merely on ritual observance but on the sharing of basic monotheistic beliefs. Plato is not a monotheist, but we can see here one way in which his thought appealed to ancient Jewish and Christian thinkers, who took it further in terms of a universal community rather than a particular type of Greek city. I do not here discuss more deeply the relation of political to religious thinking in the ancient world, but I take it to be notable that Plato influenced a tradition so different from that of other ancient philosophers who thought about the gods.

If the task of the state is to make people virtuous, and laws and institutions should be shaped to that end, there has to be some relation between following laws and becoming virtuous, and surely, if virtue is to be more than routine, the relation has to be richer than simply reliable rule following. Contemporaries disagree about the project itself and ways in which it could be carried out. In this area the *Laws* still gives us plenty to think about.

<sup>2</sup> An intriguing 'might have been' is the Emperor Julian's plan to restore pagan religion in the Greco-Roman world. See O'Meara (2003) 123: 'We may conclude that, in its general lines, Julian's conception of the political importance of religion corresponds to what can be found in Plato's *Laws*: the primacy of piety as a political virtue; the political centrality of religious institutions and the menace represented by "atheism", a position which involves religious ideas incompatible with political order; the necessity of establishing a dense network of active cults in a structure that is both centrally organized and regionally diversified; the traditionalism that is to be observed in religious organization. However, it does not appear that Julian's approach is *simply* that of applying the religious programme of the *Laws*.'



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